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**Social justice and labour market institutions
A critical analysis of the German Hartz Regime**

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Title

Social justice and labour market institutions: a critical analysis of the German Hartz Regime

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Corrected Final PhD Draft

12/08/2017

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List of Acronyms

AG – *Arbeitgeber* – Employer

ALGI – *Arbeitslosengeld I* – Unemployment Money I

ALGII – *Arbeitslosengeld II* – Unemployment Money II

ALMP – Active Labour Market Policy

AV – *Arbeitsvermittler* – Work Placement Officer

BA – *Bundesagentur für Arbeit* – Federal Employment Agency

BG – *Bedarfsgemeinschaft* – Community of Need

CDU – Christian Democratic Union

CPE – Comparative Political Economy

CSR – Corporate Social Responsibility

ECM – Extended Case Method

EG – *Existenzgründung* – Startup Founding Grant

EU – European Union

FDI – Foreign Direct Investment

GDP – Gross Domestic Product

GDR – German Democratic Republic

GR – *Gewerkschaften Repräsentant* – Union Representative

HDI – Human Development Index

IAB – *Institut für Arbeits- und Berufsforschung* – Institute for Labour Market Research

INSM – *Initiative Neue Soziale Marktwirtschaft* – New Social Market Economy Initiative

K – *Kunde* – Client

OECD – Organisation for Cooperation and Development

OMC – Open Method of Coordination

PRT – Power Resources Theory

SGBII – *Soziale Gesetzbuch II* – Social Code II

SGBIII – *Soziale Gesetzbuch III* – Social Code III

SIP – Social Investment Paradigm

SPD – *Sozialdemokratische Partei Deutschland* – Social Democratic Party of Germany

UBI – Universal Basic Income

UK – United Kingdom

UNDP – United Nations Development Programme

US – United States

USA – United States of America

VoC – Varieties of Capitalism

WG – *Wohngemeinschaft* – Shared Apartment

WSI – *Wirtschaft- und Sozialwissenschaftliches Institut* – Economic and Social Science Institute

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Abstract

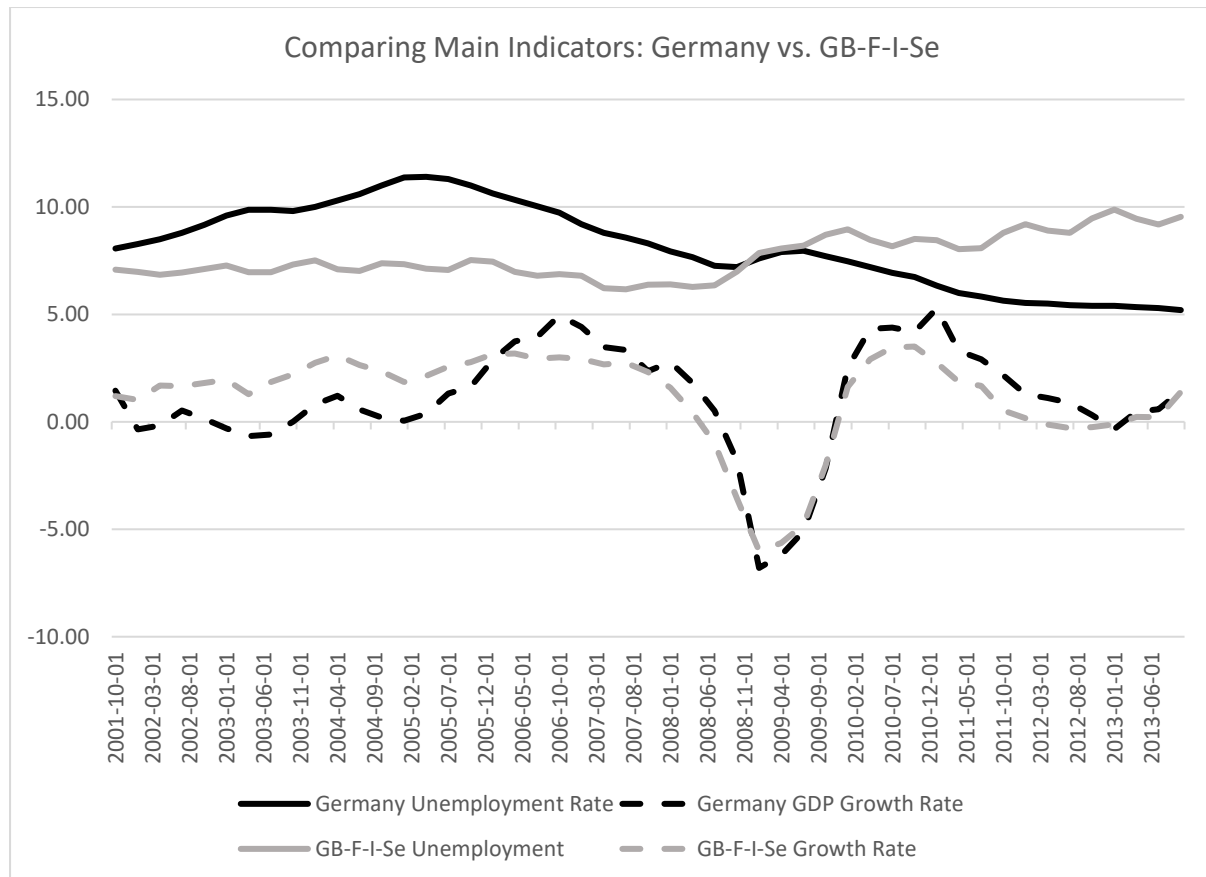
This thesis examines the contemporary German labour market regime, answering one theoretical and one empirical research question. The theoretical question is: *How can we analyse labour market institutions with a theory of social justice that is sufficiently parsimonious to conduct concrete empirical research?* The empirical research question is: *Are the labour market institutions of the German Hartz Regime socially just?* The thesis proceeds in two parts. After defining the Hartz Regime, it reviews theories of justice applied to comparative political economy – particularly the social investment paradigm’s appropriation of the capability approach. With the epistemological fallacy of reification evident in the latter, the thesis constructs a critical epistemic framework based on Habermas’s system and lifeworld distinction, with their respective instrumental and normative forms of reasoning, to theorise social justice as 1) parity of participation between a plurality of normative action orientations towards labour market participation, and 2) equivalent moral standards despite functional differentiation in the system. Utilising vignette-driven interviews with Jobcenters personnel, unemployed individuals, firms, and union representatives in four regions of Germany, findings suggest that the Hartz regime does not grant parity of participation. However, the asymmetric application of moral reasoning towards different positions in the social structure is more prevalent – with capital and rentier classes enjoying increasing rights to treat the wage labour relation instrumentally rather than as the moral duty expected of labour and state dependants. The thesis then reconstructs a theory of social justice for future use in comparative political economy.

Introduction

It is a platitude among critical thinkers that the purportedly objective facts of political economy are factual only insofar as they accurately reflect a normative position on the purpose and structure of political economies. Nevertheless, such ‘facts’ continue to be repeated as such in political discourse and mainstream research paradigms – particularly when harmonised into quantified indices measuring conventionally recognised social states such as unemployment or economic growth. With such standardised measurements projected onto every political economy around the planet, the proclivity to compare generates positive and negative evaluations of institutions in political economies. However, these ultimately normative evaluations are communicated as above political dispute due to their reliance on statistical measures and scholarly convention establishing their supposedly factual basis.

The term ‘exceptional performance’ is an instructive example, often used to describe the factual reality of the German labour market after the series of crises since 2008. With the United States and other European countries mired in protracted unemployment by comparison, the inverse experience of Germany surprised observers and policymakers, moving them from fascination (*The Economist*, 2012) to further investigation and possible policy learning (Möller, 2010; Dietz et. al. 2011; Leonhardt, 2011). Although some have suggested pessimism among firms restrained hiring prior to the crisis (Burda and Hunt, 2011), credit for the German ‘miracle’ has primarily been attributed to the extended use of unique state-subsidy programmes known as working time accounts and short-time work (Dietz et. al. 2011; Rinne and Zimmermann, 2012). By subsidising firms to keep core workers at home but on the payroll, the state avoided an unemployment catastrophe and allowed firms time to ride out the crisis without losing their core workforce.

Graph I.1 – Unemployment and GDP in Germany and Comparable Countries



Source: OECD, "Main Economic Indicators - complete database", Main Economic Indicators (database), <http://dx.doi.org/10.1787/data-00052-en> [Accessed 9/9/2014]. Unweighted averages between Great Britain, France, Italy, and Sweden. In the most prominent typologies, France and Germany are considered conservative welfare states or coordinated market economies, with Italy often the same or an added category of 'Mediterranean', which contrasts with the liberal market economy of Great Britain and the characteristic social democratic or 'Nordic' model of Sweden.

Nevertheless, the comprehensive reform of the welfare state and labour market institutions known as the Hartz Reforms, completed in 2005, has been popularly credited as a major reason behind the longer-term decline beginning years prior. Branded the 'Wunderreform' by *The Economist* (2013), the Hartz reform is considered the defining moment in transforming the German welfare state from one with high costs and low employment generation, towards an efficient state promoting flexibility and competitiveness (Eichhorst and Marx, 2011; Krause and Uhlig, 2012; Reisenbichler and Morgan, 2012). In short, the

‘miraculous performance’ of the German labour market was explained by deft state intervention during the crisis, complementing earlier reforms promoting de-regulation and activation.

Inside Germany however, the debate over the Hartz Reforms scarcely reflects this universal praise. Implemented by the Social Democratic (SPD) and Green coalition under Gerhard Schröder’s Third Way-inspired leadership (Blair and Schröder, 1998; Giddens, 1998), the Hartz Reforms were part of a longer restructuring process in German labour market policy which began in the mid-1990s (Fleckenstein, 2012). After implementation, indignation over the content of the reform is widely credited for the partial decline of the Social Democratic Party (SPD) and emergence of the democratic socialist party *Die Linke* (Hough et. al. 2007; Allen, 2008; Wüst and Roth, 2008). Likewise, normative criticism extended into the popular discourse about social justice following the increase of inequality and poverty (Dettmer and Schmergal, 2013), as well as the hopelessness and stigmatisation of citizens subjected to the Hartz IV activation regime (Knight, 2010; Öchsner, 2013; Endres, 2014).

Defined in the following chapter, the term ‘Hartz Regime’ alludes to Gøsta Esping-Andersen’s (1990) models of welfare capitalism, described as ‘regimes’ which balance labour market and welfare policies. In 1990, Germany was identified as ‘conservative’ and its regime institutionalised significant social stratification in gender and occupational status. However, following the Hartz Reforms, German welfare capitalism has undergone significant liberalisation (Thelen, 2014) and can indeed be considered a new ‘regime’. Although successfully reducing long-term unemployment, the Hartz Regime has invited popular discourse about social justice since its inception, yet Esping-Andersen’s field of comparative political economy (CPE) has remained largely aloof from such criticism.

Originally split between research on corporatism (Siaroff, 1999), the effect of production regimes on economic output and political trends (Garrett, 1998; Streeck and Kenworthy, 2005), CPE eventually converged around debating comprehensive typologies of capitalist institutions such as Esping-Andersen's (1990) work and the influential Varieties of Capitalism (VoC) approach (Hall and Soskice, 2001; Amable, 2003). Placing firms as the central agents, the VoC approach follows an empirical shift among European states towards deregulation, activating social policy, and as well as rethinking the welfare state as an institutional regime supporting economic competitiveness (Bonoli, 2013; Hemerijk, 2013).

In this body of literature, the labour market of the German political economy was categorised as 'coordinated' (Hall and Soskice, 2001), traditionally known for a comparative advantage in high quality manufacturing. However, in more recent times, it has followed many other continental economies in the increasing prevalence of 'dualisation'— with labour market insiders and outsiders increasingly inhabiting different worlds with different expectations (Palier and Thelen, 2010; Emmenegger et. al. 2012). This tendency has been exacerbated by the Hartz Reforms (Thelen 2014:140-1).

Explanations of dualisation tend to focus on either institutional (mal-) adaptations to globalisation, post-industrialisation, and increased labour market participation by women (Fleckenstein, et. al., 2011; Jensen, 2011), or emerging from partisan politics (Rueda, 2008). In either case, most research in CPE tends to follow this emphasis on generating a causal explanation for why dualisation has occurred. However, the simple but highly salient question of whether activating labour market institutions such as German Hartz Regime ought to carry normative terminology like 'exceptional performance', implying a positive affirmation, or critique focused on the question of 'social justice', remains an outcome of disciplinary divides at best, and at worst, an unacknowledged ideological agenda pervading the study of CPE.

Topic and Research Questions

Considering scholars like to believe empirical evidence informs political discourse and public policy, can limiting scholarship to causal relationships between institutions and their outcomes truly allow researchers to function as if terms like social stratification and dualisation are devoid of normative content? What if we simply asked the question directly? *Institutions governing labour markets are arranged according to concerns of social justice and should be studied as such* (Azmanova, 2012a). Fortunately, not only do theories of justice require reconciliation between multiple perspectives and levels of analysis, their justifications are often rooted in epistemology and thus offer insights into reconciling normative evaluation with causal explanation. This leads to a deceptively simple research question:

Empirical Research Question: *Are the labour market institutions of the German Hartz Regime socially just?*

In practice, this research question requires selecting an appropriate theory of justice and operationalising it for empirical research, then testing it on the German case with a suitable method. However, considering the divergence between normative theories of justice and explanatory empirical research, any study aiming to reconcile a theory of justice with empirical political economy is hard pressed to find equivalents in mainstream approaches. As Andrew Sayer (2000:157) has pointed out:

“There is a remarkable imbalance between our ability to think about the social world positively or scientifically, as something to be understood and explained,

and our ability to think about it normatively, or even to think how it might be.

The attempted expulsion of values from science and science from values (by reducing them to arational, emotive expressions) has not succeeded in producing a value-free science, but it has left normative thinking to wither in many parts of social science... However, part of the reason for the gulf between positive and normative thinking in social science has to do with the abstractness of most literature in moral and political philosophy, and its remoteness from the concrete problems and moral dilemmas of everyday life.”

This problematic divide is particularly acute in political science (Brown, 2010; Kaufman-Osborn, 2010) – ironically the very disciplinary home of both CPE and political theories of justice. At the forefront of banishing normative evaluation from empirical analysis, comparative political economists find themselves increasingly accepting two assumptions about social research which have been disputed since the great debates of philosophy of science in the mid-20th century (Popper, 1962; Habermas, 1988; Honneth, 1991; Foucault, 1997). First, by accepting whatever are considered ‘socially relevant’ fields of inquiry and empirical measures of ‘performance’, they must recognise an external authority which ostensibly generates value-free assessments of both – often consigning this authority to either explicitly normative actors in the political sphere or disciplinary convention (King, et. al, 1994:15). Secondly, they must proceed as if social institutions and behaviour can be modelled objectively by abstracting their normative content into mathematised variables and focusing on causal relationships between them – functioning as if establishing statistical significance with abstract proxy data equates to scientific truth.

Political theorists likewise march through established rites of abstraction before reaching universal truths – either by redefining the terminology used in a specific strand of political theory, or through careful exegesis of revered texts which previously had done the

same. Consequently, instead of directly confronting the “concrete problems and moral dilemmas of everyday life” (Sayer, 2000:157), which could in principle inform political debate, contemporary political theory is often obfuscated by closed and self-perpetuating hermeneutic traditions. Despite some attempts to theorise social justice constrained by empirical data (Rothstein, 1998), as well as a long-standing tradition of applying the capability approach (Nussbaum and Sen, 1993; Sen, 1999; 2009) to European welfare states (Esping-Andersen, 2002a; Hemerijck, 2013) we have no real debate between various theories of justice systematically applied to labour market institutions in CPE. It thus appears that “the state of knowledge in [the] field is such that much fact-finding and description is needed” (King, et. al, 1994:15). In other words, we must proceed on an exploratory basis when attempting to answer the empirical research question posed above, with provisional results taken on the merits of their intuitive validity. Accordingly, this study aims to open a new debate directly addressing social justice in the subdiscipline of CPE through an exploratory study of German labour market institutions. The term ‘validity’ in CPE corresponds to Peters’s (1998) textbook understanding in which “what we are measuring is what we think we are measuring” (Peters, 1998: 46) – in short, the lived experience of social (in)justice which is sufficiently generalisable to travel across cases for comparative empirical analysis in the contemporary period. As will become apparent however, ‘validity claims’ are dependent on the specific goal (telos) of any statement of truth, thus rooting validity in its social context of mutual understanding or instrumental effectiveness (Habermas, 1984: 11). Validity is therefore somewhat more broadly defined here: whether a given theoretical claim corresponds to empirical experience (ie. empirical validity), but also whether it corresponds to a rational consensus of mutually understood norms (ie. normative validity) (Habermas, 1987b: 115). Because the empirical application of a theory of social justice thus suggests both forms of validity, we must first

identify *how to empirically study institutions in terms of social justice*. This necessitates a theoretical research question which must be examined prior to conducting empirical research:

Theoretical Research Question: *How can we analyse labour market institutions with a theory of social justice that is sufficiently parsimonious to conduct concrete empirical research?*

Main Arguments

When examining theories of social justice regularly applied empirically, the capability approach (Sen and Nussbaum, 1993; Sen, 1999; Nussbaum, 2000; to some extent Rothstein, 1998) largely stands alone. However, when operationalised, this approach requires two assumptions: 1) an ontology of methodological individualism; and 2) considering politically-induced elements of global capitalism as exogenous facts. A similar tendency is identifiable in CPE, with the social investment paradigm (Hemerijck, 2013) often conceptualising reforms like the Hartz Regime as the only scientifically valid response to globalisation. Reliant on internally-defined assumptions about what performance is, this mode of argument borrows from Third Way ideologues who employed it to justify policy changes like the Hartz Reforms and its comparative variants (Giddens, et. al., 2006). Questions of social justice are transformed into technocratic endeavours which take for granted what Third Way ideology considers exogenous facts or appropriate measures of performance. Combined with a positivist epistemology, this mode of argument falsifies any normative approach critical of empirical measures which fail to reflect implemented ideological constructs. Such a mode of argument rests on an epistemological fallacy known as *reification*. Although of disputed meaning (Honneth, 2008), the term reification as employed in this thesis will follow Lukács's original

definition in which “a relationship among people is given the character of a thing and thus acquires a ‘phantom objectivity,’ whose strict, apparently altogether closed and rational autonomy conceals every trace of its fundamental nature: the relationship among people” (Lukács, 1971: 83). Concepts like globalisation, market allocation, and quantified measures of social states like unemployment, although omnipresent in contemporary capitalism, are not timeless observations of human nature, but reversible and socially-constructed measures of human relations in the context of capitalist society. Therefore, reification in both social research and everyday communication renders current observations of the capitalist status quo as exogenous facts, effectively restricting the scope of social justice. The widespread problem of reification in empirical research suggests that *immanent* critique is necessary in any empirical study of social justice, as it allows for theory construction based on lived experience rather than ideologically-informed assumptions biasing empirical research in favour of the status quo.

In contrast, Critical Theory of the Frankfurt School tradition begins precisely with *immanent critique of reified norms*, particularly those masquerading as scientific fact, arguing any theory of social meaning and action must have *emancipatory intent*. Critical Theory thus acknowledges that operationalised assumptions of fact and institutional performance are historically-contingent normative choices by the researcher. Building from this principle, the argument in this thesis first takes Habermas’s distinction between system and lifeworld to construct an epistemic framework based on forms of reasoning in communication action. It argues that focusing on this epistemic framework is more effective for the study of institutions than causal inference based on reified measurements, as well as purely normative interpretation of abstract stylisations conducted by political theorists, because it allows for integrating both normative and positivist modes of thinking both at a theoretical and an empirical level.

More specifically, systems like the German Federal Employment Agency (*Bundesagentur für Arbeit - BA*), or the Hartz Regime generally, are organised means to

achieve specified goals. Based on instrumental rationality, these systems standardise and measure inputs and outputs, functionally differentiating participants into social roles as means to achieve specific ends. However, they are shaped by organising principles such as ‘markets’ which expand this functional differentiation into socially differentiated positions in a social structure – social classes – leading to administrative hierarchies, concentrations of wealth, and other concentrations of “steering media” (Habermas, 1975) controlling the system. On the other hand, the lifeworld is a constellation of normative definitions of social necessity, evolved over time through normative reasoning in the public and private spheres, furnishing shared meanings which motivate morally-meaningful activity, social solidarity, and individual responsibility. Sovereign legal codes, universally binding to all citizens, substantiate the bond between system and lifeworld and are generally communicated as the moral duty to follow the law.

From this perspective, social justice first implies that the functional differentiation of legal and economic systems cannot precipitate different standards of moral duty based on social class. To do so would unjustly differentiate rights and duties of individuals – breaking the universally-binding normative order underpinning law in democratic society. However, due to the history of subordination in the lifeworld, based on misrecognition of identities in communicative practice (Honneth, 1995, 2003; Fraser, 2003), we must also recognise pluralism in forms of social participation to maintain the emancipatory imperative of critical thought. Rather than attempt to define the myriad of identities in the lifeworld, subsequently drawing a false causality between the characteristics of an identity and a form social participation, I suggest we can avoid this degeneration into essentialism by focusing specifically on the individual action orientations towards participation in the system. The theoretical argument thus conceptualises labour allocation systems as directed towards one of three principles of social organisation – marketisation, social protection, and emancipation (Polanyi, 1944; Fraser,

2011) – with social justice secondly understood as parity of participation between the forms of behaviour implied by these organising principles.

However, because capitalist labour allocation systems are primarily rooted in markets as an organising principle, I draw from Claus Offe (1985) to define the basic social structure of capitalist labour markets, identifying four schematised social positions based on sources of subsistence: the rentier who collects unearned income from asset ownership; capital, who collects income from profits made by employing labour to produce goods and services sold on consumer markets; labour, who derives subsistence from wages; and dependants who derive subsistence from dependency on the other categories – particularly through the family or the welfare state. I thus argue that social justice must 1) apply equivalent normative reasoning despite different positions in the basic social structure; yet 2) grant parity between the three different action orientations towards labour market participation. This provides an emancipatory but also relatively parsimonious theoretical schematic to approach the empirical study of social justice and labour market institutions.

Following induction from qualitative field research, I come to find that the 2nd principle of social justice described above is somewhat undermined by the Hartz Regime. However, by limiting the only morally acceptable form of participation to entering the wage labour relation, the Hartz Regime fails to apply equivalent moral standards on individuals regardless of position in the social structure. Thus, the first principle of social justice is disregarded more pervasively, particularly through the asymmetric application of moral duty to those dependent on wages or welfare for subsistence, versus those dependent on profits or rents for subsistence. The former are expected to consider the wage-labour relation as a moral duty of social integration, whilst the necessary counterpart to this relation, capital, is granted a right to reason instrumentally about entering into the very same relation. In other words, labour is morally obliged to work for a wage regardless of their instrumental self-interest, whilst capital is legally entitled to

absolve all moral responsibility when choosing to enter into the same relation, exercising purely instrumental reasoning in the pursuit of self-interest. This presents contradictory and asymmetric application of moral duty.

Although rather intuitive from a Marxist perspective, this argument emerges from a reconstructed historical materialism influenced by a Habermasian focus on communicative action in lifeworld and system, combined with Offe's system-theoretic focus on labour markets as instrumental systems. It thus attempts to revitalise inter-related strands of a highly resonant critique of capitalism emerging out of German Critical Theory in the 1980s – yet somewhat marginalised after 1989. At the same time, it attempts to explore social injustice without reducing it to mere distribution of resources or recognition of complex socio-cultural identities. In so doing, it offers a systematic approach for identifying how Fraser's (2003) conception of social justice, *parity of participation*, is experienced in comparable empirical contexts, specifically when participation equates to entering the wage-labour relation. Fraser's simple principle of social justice linked to this seemingly abandoned critique of capitalism thus presents a powerful framework to explore the lived experience of social justice in labour market institutions governed by Third-Way models of welfare capitalism.

In terms of the research question, is the Hartz Regime socially just? The answer is clearly no which will be thoroughly argued in Part II of this thesis. However, without a comparative context, a simple case study offers little more than a theory of social justice followed by a description of the Hartz Regime. Although limited to only sketching this framework alongside a more specified research programme for CPE after an exploratory study of the German case, the theory is reconstructed for comparative use in the final chapter, elucidating the key relational loci where welfare states and capitalist production regimes either mitigate or intensify the injustice of labour markets highlighted above. This thesis thus offers not only a concrete definition of the oft-used term 'social justice', but offers CPE a critical alternative to

the singularly supply-sided approach of the popular social investment paradigm. By offering a critical alternative from a relational participant's perspective, we can move beyond the myopic vision of capitalist development as an exogenous fact workers and welfare recipients must adapt to, towards what it is: an ultimately changeable social system which unjustly differentiates social groups into those bearing a moral obligation to be treated as expendable instruments by a smaller group legally entitled to do so.

Chapter Structure

The thesis is organised in two parts with a total of 8 chapters. **Chapter 1** briefly explores the historical background of the Hartz Regime, defining it in four categories. Although referencing recent literature in CPE, particularly regarding labour market dualisation, this chapter is mainly directed towards familiarising the reader with the context and extensive terminology accompanying the Hartz Regime.

Chapter 2 examines the assumptions and justifications found in contemporary theories of justice alongside those in recent empirical studies of CPE which apply them. It first examines the revitalisation of the tradition with John Rawls (1999a). This revitalisation shifted the basis of argument from ontological assumptions characteristic of the social contract theorists (Locke, 1980; Rousseau, 1968, 1984), constructed through the state of nature device, to epistemological justifications defining individually reasonable expectations towards political institutions. Highly influenced by Rawls, the capability approach is then examined contrasting Sen (2009) and Nussbaum (2000) before highlighting its substantial influence on CPE. More specifically, Bo Rothstein's (1998) work on the Swedish case was an early study relating the capability approach to European welfare states, ultimately leading to the multitude of scholars working towards the 'social investment paradigm' (Esping-Andersen, 2002a; Hemerijck, 2013). The

social investment paradigm follows the political and economic changes in the 1990s, observing an empirical shift towards economic globalisation, deregulation, and Third Way social democracy, before advocating a supply-side labour market policy which considers the neoliberal transformation of the 1990s a new factual reality. Critically, this suggests the assumptions in mainstream empirical CPE follow from changing political climates rather than independent scientific rigour, highlighting a problem for positivist epistemology in empirical research generally: the fallacy of reification.

Chapter 3 examines the tradition of Critical Theory to build a theory of social justice sufficient to overcome these issues, drawing primarily from Max Horkheimer (1947; 1972), Jürgen Habermas (1975; 1984; 1987a; 1987b; 1989; 1991; 2001), Nancy Fraser (1990; 2003; 2008), Claus Offe (1984; 1985; 1996), and Hauke Brunkhorst (2014). Critical Theory focuses first on an immanent critique of abstract empirical ordering frameworks via interrogating the lived experience of participants subject to such orders. Secondly, following Habermas, by considering the *relational* character of language as the only ontological fact, Critical Theory's approach to epistemological justification examines forms of communicative action by social participants. To specify, regardless of the true nature of social reality, it is understandable only insofar as participants communicate within and about it, which comes in two basic forms: the instrumental reasoning of *systems*, and the normative reasoning of *lifeworlds*. Following Brunkhorst (2014), any theory of justice presents a tension between the distribution of rights and duties in systems of coordinated action, and the egalitarian element of shared social norms, their attendant moral expectations, and the *laws* which enforce them. Because the lifeworld establishes normative expectations enshrined in law, as well as moral motivations for individual participation in systems, an *action orientation* is a useful analytical device linking social norms with individual action. In this context, *pluralism* is essential for an emancipatory outlook, as highlighted by Fraser (1985; 1990; 2003). Social justice cannot exist without a

plurality of action orientations granted *parity of participation* by a given system, whilst the social norms motivating and constraining behaviour must nevertheless be equally applied regardless of an individual participant's social class. This tension between 1) enforcing equal normative expectations upon various positions in the social structure, and 2) a system tolerating pluralism in the lifeworld, provides the definition of social justice for this thesis.

Operationalising this theory for contemporary labour markets, **Chapter 4** elucidates the social norms underlying action orientations of labour market systems in post-industrial Europe. Complementing Karl Polanyi's (1944) competing organising principles of *social protection* and *marketisation* around the issue of labour commodification, Fraser (2011) argues that the emergence of new social movements in the 20th century offers a third organising principle in *emancipation*. With financial gain, stable relations of reciprocity, and freedom from ascribed subordinate statuses as the social norms guiding each principle, I consider each an *action orientation* towards system participation. The abstract system of capitalist labour allocation is then examined, drawing heavily from Offe (1985), which provides four theoretical categories to distinguish incentive structures compelling labour market participation (financial, moral positive, moral negative, and coercive), as well as four class positions in the social structure (rentier, capital, labour, dependant). These categories provide variables for observing not only how each action orientation is subjected to incentives for participation, but also how class positions in the social structure may reason differently about participation.

The second section interrogates the social justice of the Hartz Regime directly. **Chapter 5** first elaborates the method of empirical research, shaped primarily by Michael Burawoy's (1998) Extended Case Method (ECM). I first focus on the BA as the institutional system which distributes welfare under the Hartz Regime – specifically attempting to intervene in the site of client processing to observe patterns of normative and instrumental reasoning in communicative action. For field sites, I selected regional districts of the BA which represent

the extremes of the German labour market according to traditional measures of performance: Greifswald, Ingolstadt, Freiburg, and Gelsenkirchen. In order to test parity of participation between action orientations, I constructed 3 vignettes derived from previous interviews with actual Hartz IV recipients stored at the *Institut für Arbeits- und Berufsforschung* (IAB) at the BA headquarters in Nuremberg – allowing for greater realism. I altered some aspects of the interviewees' experience to reflect the instrumental and normative reasoning characteristic of each action orientation. I then conducted semi-structured interviews with 5-6 front line personnel at each site who communicate daily with welfare recipients at the Jobcenter. I then conducted the same approach with actors outside the BA which represented positions in the social structure, examining if a shift in reasoning about labour market participation aligned with social class position.

Chapter 6 is a primarily descriptive account of how BA personnel interpreted and responded to the vignettes. This chapter closely examines parity of participation between action orientations, operationalised through examining the incentive structures used to activate the given fictitious individual in each vignette. Focusing on the 22 Jobcenter personnel interviewed, I find that an action orientation towards emancipation is the least tolerated, whilst the vignette oriented towards marketisation is the most – with tolerance understood by a scale of positive versus negative incentives employed to activate. However, their relative weights are surprisingly similar and are in any case overshadowed by another element of the regime: participation in the labour market through work, regardless of content or outcome, is communicated as a moral duty and the only method of social integration. My research thus suggests that the moral duty to participate in the wage-labour relation is not universally applied, but dependent on position in the social structure.

Chapter 7 combines the process and structuration steps of Burawoy's ECM through interviewing individuals at various levels of the social structure and triangulating their

experiences with local labour market statistics. Alongside the 13 interviews with representatives of positions in the social structure, it focuses on the relations between each of these classes and how they are manifested in wealth and debt statistics for rentiers and capital; wage share, unionisation rates, and distribution of income for capital and labour; as well as statistics on dualisation and the trajectory of contract-types in the labour market for those between labour and welfare dependency. It suggests that the primary injustice of the Hartz Regime is the expectations of moral duty placed on those in lower positions of the social class structure without equivalent moral duties applied to their necessary counterpart in the wage labour relation. This results in a contradiction between the normative reasoning applied to the lower classes with the instrumental reasoning exercised by the rentier and capitalist. This finding is corroborated by statistical evidence suggesting the moral expectations attached to work in the Hartz Regime are not being met by the instrumental system's continuing trajectory towards greater precariousness, inequality, and wage suppression.

Considering the class-based component underlying social justice in labour markets, **Chapter 8** reconstructs the theory developed earlier for use in CPE based on the assumption that capitalist labour markets, under conditions of asymmetric wealth distribution, will always be socially unjust. Therefore, the welfare state is not a supply-side endeavour designed to make labour a more attractive instrument for capitalist employment, but rather a key system mitigating the injustice inherent to differentiated standards in moral duty. The chapter first addresses the shortcomings emerging from empirical analysis, particularly the nuances of moral incentives communicated at Jobcenters making an analysis of parity of participation difficult, as well as the Europeanisation of capital and competition law rendering two different sets of legal norms which are themselves differentiated by social class. I then offer solutions focusing on *basic needs* and qualitative study of *welfare conditionality* for the former, as well as a focus on *interregional inequality* and *financial market equilibrium* addressing the latter. I

then reconstruct the theory and matrix of hypotheses offered in chapter 4 following lessons learned from empirical research, ultimately providing a research programme for analysing social justice in labour market institutions in CPE.

Ultimately, the theoretical framework developed in this thesis should be understood as both critical and complementary to the social investment paradigm in CPE. It focuses on *relations* between participants in labour market institutions rather the educational input -> job quality output characteristic of the social investment paradigm. Indeed, justice as both a theoretically and empirically understood concept focuses on *relations between social participants* rather than an *outcome* for individuals subject to a given social system. The thesis concludes with a brief summary.

Chapter 1 – Defining the Hartz Regime

“WHEN Gerhard Schröder took to the podium in the Bundestag on March 14th, 2003, Germany was called the ‘sick man of Europe’. More than 4m Germans (11.6% of the workforce) were on the dole. A widespread assumption was that unemployment could never be defeated, merely ‘administered,’ says Wolfgang Clement, who was the former chancellor’s labour and economics minister. Countering that spirit, Mr Schröder unveiled a package of reforms that he called Agenda 2010... Ten years later, what is the verdict? Financial crises be damned, Germany stands as an economic beacon, with record employment and the lowest youth unemployment in Europe... Some countries are studying Agenda 2010 as if it were a manual.” – The Economist, March 16th, 2013

Fanfare defining the Hartz Reforms as a boon to the German economy is so widespread, particularly in financial and business media, that its institutional configuration is considered a model of performance and an example of ‘necessary reforms’ applicable to other countries like Italy and France (Economist, 2012). As will become clear throughout this thesis however, the consequences of the Hartz Regime are indeed rather transparent for both macroeconomic indicators and micro-level sociological research, but how we evaluate it depends on which perspective we take, and whose ultimately normative agenda is served by this intellectual choice. These dual perspectives accompanying descriptions of the Hartz Regime are reflected in academic literature, empirical evidence, and everyday discourse to such an extent that an analytical framework incorporating this perspectival divide will become central to this thesis. Because this duality reflects disciplinary, ideological, and socio-economic divides, only through a recourse into epistemology will we be able to reconcile these perspectives into something resembling a truthful account of social justice and the Hartz Regime.

Beforehand however, I must define what is referred to when employing the term ‘Hartz Regime.’ This chapter will thus briefly articulate a critical historical background, descriptive legal content, and some observed consequences of the Hartz Regime in CPE. Drawing evidence from preliminary field research and existing scholarship, this chapter is designed to offer a definition *and not an argument about the Hartz Regime’s causes and consequences.*

I. Critical Historical Background

After the reunification of Germany in 1990, unemployment crept upwards throughout the 1990s, until it entered the political agenda of Chancellor Helmut Kohl of the Christian Democratic Union (CDU). With early retirement overextended, utilised since the 1980s to reduce labour market pressure and appease the social partners of German corporatism (Streeck, 2009), Kohl's conservative-liberal government's Alliance for Jobs failed to materialise and stem longer-term trends of rising deficits and increasing unemployment rates. After Gerhard Schröder of Germany's Social Democratic Party (SPD) assumed the chancellorship in 1998, a series political manoeuvres within the SPD led to the resignation of the more left-wing finance minister, Oskar Lafontaine, ultimately paving the way for the hegemony of Schröder's neoliberal project (Ryner, 2003) inspired by the Third Way political agenda (Blair and Schröder, 1998). With the unemployment rate breaching 10% by the early 2000s, Schröder commissioned Peter Hartz, a Volkswagen executive to devise a reform plan entitled 'Agenda 2010'. This programme included changes in labour market regulations and welfare state institutions, effectively diminishing the influence of unions and moving the German political economy in a more employer-friendly direction (Kindermann, 2005, 2014; Bruff, 2008; Fleckenstein, 2012).

Ian Bruff (2008) examined the development of Kohl's Alliance for Jobs, contrasting it with the Wassenaar Agreement and subsequent labour market policies in the Netherlands. Although both attempted to 'flexibilise' labour contract regulations, for instance through allowing more part-time or temporary full-time work, alongside demanding wage moderation from unions, only the Dutch reform was implemented. A critical component of his analysis focuses on whether the key political actors engaged in a reform negotiation can form a

consensus over the basic facts of the situations facing their political economies. In his discussion of negotiations between employer associations and trade unions in the German case, Bruff argues (2008:135) “it was not possible to construct a consensus in the Alliance for Jobs process, because the different versions of common sense were rooted in different interpretations of economic ‘reality.’” German unions continued to adhere to the post-war standard of *Modell Deutschland*, the highly coordinated economy in which most production took place within Germany, whilst employers and capital were rapidly transnationalising, leading to the threat of stagnating domestic investment accompanying capital export. This ultimately led to a breakdown of the programme, ushering in a more radical liberalisation programme by the early 2000s (Bruff, 2008:Ch. 7).

The more market-oriented programme was built on what Kindermann (2005) calls a two-pronged employer offensive. On the one hand, the threat of capital flight if unions didn’t acquiesce to wage moderation and the increase in temporary and fixed-term contracts – a form of employment eventually termed ‘precarious’ (Castel and Dörre, 2009) – as well as a shift in management worker relations within individual firms, enhanced the role of firm-level works councils at the expense of traditional sector-wide collective bargaining agreements (Streeck, 2009). Alongside these shifts in the organisational system of capitalist production, an employer-sponsored public relations offensive was organised and instituted as the *Initiative Neue Soziale Marktwirtschaft* (INSM) which fixated on the new ‘realities’ of global capitalism requiring changes German labour market institutions. With poor economic data continuing to mount, Schröder ultimately passed Agenda 2010 – popularly known as the Hartz Reforms – through relying on support from the CDU (Bruff, 2008:148-157).

Ultimately, the passing of the Hartz Reforms represented a struggle between two opposing views of reality, that of employers increasingly unconstrained by domestic political

and legal norms through the globalisation of production and finance, and that of unions and left-wing elements of the SPD who resisted such a definition. Despite these definitions aligning with the monetary interests of each opposing actor, the curious undercurrent in the debate surrounding the Hartz Reforms was the supposed necessity for reform itself – emphasised by both sides. In other words, the characteristic advance of neoliberalism in Europe, precipitated by rising unemployment rates, the globalisation of production, and transnationalising finance, all became an exogenous backdrop in which disputes over labour market policy centred on the interpretation of these facts. With unions unable to contest the new reality, they were eventually bypassed and the Hartz Reforms were phased in between 2003 and January 1st, 2005.

II. The Core Definition of the Hartz Regime

The concrete elements of the Hartz Reforms can be interpreted as instituting a new *regime* governing the German political economy of labour market institutions, if “talk of ‘a regime’ is to denote the fact that in the relation between state and economy a complex of legal and organizational features are systematically interwoven” (Esping-Andersen, 1990:2). As we will come to see throughout this thesis, the seemingly minute shifts in welfare state organisation and redistributive capacity accompanying the Hartz Reforms have had wide ranging effects on German society and its economy – not only through quantitative measurements of socio-economic indicators – but also in German cultural discourse and the self-perception of individuals subject to such a regime.

Although the term ‘Hartz Reform’ itself refers to the four key recommendations of the Hartz Commission, the actual content of what could be termed a ‘Hartz Regime’ is a constellation of elements with a longer history and multiple policy inputs (Fleckenstein, 2008). The categories outlined below derive from pre-existing research (Fleckenstein, 2008, 2012;

Hohmeyer and Wolff, 2010; Stephan, 2009, 2010; Eichhorst and Marx, 2011; Promberger, 2015) and *are not directly equivalent* with the incremental process of implementing the Hartz legislation (ie. Hartz I, II, III, IV). They will nevertheless form the main pillars of the ‘Hartz Regime’ – which is broader in its definition than the specific recommendations of the Hartz Commission and policies implemented through Agenda 2010. I have outlined the four pillars of the Hartz *Regime* as defined in this thesis below:

1) *De-regulation of Labour Market*: Although not directly linked with the specific text of the Hartz Reform, this longer-term process paralleled the welfare state reforms, thus forming a key component of the Hartz Regime. Deregulation facilitated the rise of temporary agencies and fixed employment contracts – both resisted by unions during the Alliance for Jobs period (Bruff, 2008) – part-time work, and generally more employer flexibility in types of labour contracts. A key element of this pillar was the entrenchment and expansion of the so-called ‘Minijob’ – a form of employment originally formulated in the 1970s in which contracts under 15 hours per week were exempted from contributions into the health, unemployment, and pension insurance systems. By 2015, Minijobs were increasingly defined not by the number of hours worked but by the weekly salary, with €400 *per month* – equating to approximately €6.20 per hour until the minimum wage was instituted in January, 2015. Contrasting the Minijob, the main form of employment, whether part-time or full-time is called *Sozialversicherungspflichtige Beschäftigung (SvpB)* – a key term throughout the empirical portion of this thesis – meaning employment obliged to pay into the social insurance systems.

2) *Active Labour Market Policy (ALMP)*: In conjunction with de-regulation, new types of jobs were created to facilitate direct and indirect government subsidies for ‘re-integration’ (*Wiedereingliederung*): so-called One-Euro-Jobs.¹ In practice, the latter are mostly measures

¹ These pay 1€ per hour and are not subject to the minimum wage of 8.50€ per hour, but must contribute to the public good in non-profit sectors.

to ‘rehabilitate’ the long-term unemployed through low-stress work in roles like old age care or the maintenance of public parks. The German term *Maßnahmen* – which simply translates as ‘measures’ – will be used to denote this form of labour utilisation. Also included were expanded subsidies for retraining, more state support for apprenticeships (*Ausbildung*), as well as direct subsidies to private employers through several regionally-targeted job creation schemes. In addition, the long-standing policy of temporary state support for budding entrepreneurs was expanded (*Ich, AG*).

3) *Bureaucratic Rationalisation*: The organisations distributing social welfare and unemployment insurance were consolidated into the *Bundesagentur für Arbeit* (BA). The newly formed agency merged together two formerly separate entities into a single federal agency with somewhat uniform operating procedures. Furthermore, the terminology accompanying these changes also ‘modernised’, including calling welfare recipients ‘clients’ (*Kunden*) and welfare and job-placement offices ‘Jobcenters’ reflecting the new focus on employment generation. The former general bureaucratic term for benefit councillor (*Sachbearbeiter*) was renamed a personal case manager or work placement officer who effectively represent the face of the BA for clients. The terms *persönliche Ansprechpartner*, *Fallmanager*, or *Arbeitsvermittler* (AV) are used to represent very specific roles within the BA. However, for this thesis, I use ‘AV’ as it mostly closely matches the focus of attention here.

4) *Hartz IV*: The most important and well-known aspect of the reform reduced the time one could directly draw from non-means tested unemployment insurance (*Arbeitslosengeld I – ALGI*) to 12 months for younger workers and 18 or 24 months for those above 50 and 55, respectively. This form of unemployment insurance dates as far back as the Bismarck-era (Bonoli, 1997), covering those who have contributed into the social insurance system and defined in the legal code *Soziale Gesetzbuch III* (*Social Code III – SGBIII*). The reform also eliminated status-preserving income support for the long-term unemployed (*Arbeitslosenhilfe*)

– who had worked previously and contributed to the unemployment insurance system. Furthermore, it consolidated social welfare and long-term unemployment support under *Soziale Gesetzsbuch II (SGBII)* into a single ‘unemployment payment’ (*Arbeitslosengeld II – ALGII*) popularly known as ‘*Hartz IV*’ – mandating newly hired AVs have regular meetings with their clients, stricter job-search requirements, and allowing more capacity for sanctioning in the case of non-compliance. To render this goal explicit, the legal title of the legislation implemented is *Fördern und Fordern (SGBII: Kapitel I)* – a play on the umlaut which roughly translates as ‘support and demand’. The term implies that the price of support from the welfare state is demanding that the recipient find ‘reasonable’ employment – with ‘reasonable’ (*Zumutbare*) also defined in the legal text of SGBII.

Each of these elements is essential for the subsequent discussion of the Hartz Regime. The regime has been largely the same since its full implementation in 2005, thus offering a prime case for the study of social justice and labour market institutions since 10 years elapsed between implementation and field research in early 2015 – sufficient time for the regime’s effects on the economy, society, and politics of Germany to take hold. However, at the very moment field research began, with the new grand coalition between the CDU and SPD instituted Germany’s first ever nation-wide minimum wage on January 1st, 2015. In practical terms, this immediately eliminated the possibility that Minijobs could be more than 12 hours per week – but other effects had yet to permeate and affect German society and economy when field research was conducted.

In summation, the Hartz Reforms were explicitly designed to transform unemployed people supported by the state into wage labourers receiving as minimal support as possible – even if this also entailed work and welfare simultaneously. This imperative was instituted through a reorganised welfare and unemployment administration in the BA, increasing surveillance of welfare recipients through dramatically expanding personnel termed AVs here,

hired as the face of the new administration for those subsisting off unemployment insurance or welfare benefits. It also specialised the supervision of recipients into differentiated paths towards employment (Sowa et. al., 2015), with a custom-designed computer programme built to systematise and standardise the welfare-to-work process. Alongside these specialised paths, the longer-term deregulation of the German labour market facilitated the expansion of multiple forms of precarious employment, thus creating the groundwork for the supposed jobs miracle celebrated by business and finance media alluded to in the introduction.

III. Initial Outcome of the Hartz Regime: Stigmatisation and Dualisation

Following full implementation of the Hartz Regime, the decline in unemployment, Germany's success in riding out the global financial crisis of 2008 and beyond, as well as the increasing profitability and export volumes of German firms became the widespread narrative of the regime's consequences. However, as alluded to earlier, this financial media fanfare was restricted to economists and business leaders examining macro-level statistics. German sociologists studying the micro-level effects found a far different narrative playing out on the ground, with comparative political economists eventually consolidating this narrative with the macro-level fanfare into the concept of dualisation – the state of the art in CPE which ultimately prompted the question: is the Hartz Regime socially just?

For critical German sociologists, the Hartz Regime became a key focus of intensive research from 2005-2015. A series of micro-level life-course studies began to show how the positive terminology surrounding the Hartz reform is applicable only to those examining macro-level statistics. Focusing on the client relations and employment generation programmes under the BA, this series of studies demonstrated the intensification of marginality, poverty, and stigmatisation of the unemployed (Dörre et. al. 2013). Despite the strong tendency towards

negative incentives as a form of activation employed by AVs, Dörre et. al (Ch. 9, 2013) found that the ‘*Erwerbsorientierung*’ (acquisitive orientation) of BA clients largely determines whether individuals integrate into *SvpB* anyway – thus requiring the state to fall back on coercive measures like benefit reductions. The term ‘*Erwerbsorientierung*’ implies a specific normative *action orientation* in which gainful employment is a *moral* imperative self-identified by individuals within their broader understandings of social norms such as parenthood and other conceptions of social participation (Bescherer et. al. 2008, 2009). The Hartz Regime attempts to discipline individuals’ self-understanding as normatively linked with ‘reasonable’ (*zumutbar*) labour market participation, regardless if the earnings and stability of their given job correspond to individual goals or local social norms (Dörre et. al, 2013). With reasonability first and foremost reflecting the prevailing conditions of the labour market, this distinctly capitalist criterion of individual valuation effectively defines not only social status orders, but individual perceptions of self-worth. Conditioned by such socio-economic norms, repeated bouts of precarious and atypical employment confuses and alters individual self-perceptions beyond any capability for reasonable life course consistency – fragmenting the autonomous individual at the heart of mainstream economic theory into a ‘dividualised’ reflection of market instability (Eversberg, 2014).

Although the intensely moral discourse surrounding Hartz IV also became a key component of this analysis, the field of CPE also began collating the consequences of the regime between 2005 and 2015. These observations corresponded to a larger trend observed in continental European political economies termed ‘dualisation’. According to Thelen (2014) for instance, because Germany has retained many competitive firms in the manufacturing sector, the regime institutionalised a dual labour market in which the traditional breadwinner model was maintained for the highly-skilled core workers in the manufacturing sector – with correspondingly high degree of firm organisation in employer associations – while an

increasing number of marginal workers find themselves in the secondary labour market with no representation by unions or long-term security at all (Palier and Thelen, 2010). Consequently, the stability of core industrial institutions despite proportional decline in industrial employment became a feature of German labour relations – with dualisation resulting from excessive reliance on increasingly archaic institutions effective only for those employed in the industrial core.

Recent analyses go further to suggest that the German state works on behalf of labour market insiders as “the welfare state tends to *reinforce* inequalities between insiders and outsiders” (Häusermann and Schwander, 2012:40-1). This follows changes in policy promoting a ‘dual path to flexibility’ (Eichorst and Marx, 2011), allowing firms greater flexibility with workers on the margins of the labour market – particularly through temporary, fixed-term, and part-time work liberalised under the first pillar of the Hartz Regime as defined above. In addition, the activation component of Hartz IV ‘incentivised’ work through making unemployment less attractive for aging and low-skilled workers (Krause and Uhlig, 2012).

In short, the Hartz Regime has further stratified German labour markets, increasingly separating the expectations, legal protections, income outcomes, and even cultural value attached to the individuals inhabiting these respective spheres – begging the question of social justice. As I will come to argue, through this functional differentiation in legal codes, as well as functionally-useful differentiation in firms’ hiring behaviour between core workers and precarious workers, the Hartz Regime has definitively re-instituted the semblance of class society in Germany. Evaluating whether such an outcome can be considered ‘socially just’ however requires a foray into theories of social justice and their operationalisation for labour market institutions in comparative political economy, a task I will turn to in the following chapter.

Part I: *How can we analyse labour market institutions with a theory of social justice that is sufficiently parsimonious to conduct concrete empirical research?*

Chapter 2: Theories of Justice and Comparative Political Economy

“The scholar and his science are incorporated into the apparatus of society; his achievements are a factor in the conservation and continuous renewal of the existing state of affairs... The factual material or subject matter is provided from without; science sees to its formulation in clear and comprehensible terms, so that men may be able to use the knowledge as they wish.”
– Max Horkheimer, *Traditional and Critical Theory*, 1937²

Comparative political economy (CPE) is marked by a tendency to prioritise works offering ostensibly value-free causal explanation of ever-changing empirical conditions. The subdiscipline has thus accumulated a considerable body of literature with shifting emphases shaped by capitalist development since the late 19th century (Dore, et. al. 1999; Streeck, 2010) – with the social investment paradigm (SIP) a recent iteration attentive to issues of social justice. Regarding theories of justice however, the debate spans thousands of years, with perspectives on justice evolving immensely over time, echoing the evolution of social norms and economic systems. Consequently, classics such as Plato’s (1992) *Republic*, which advocates for a philosopher king ruling over a polity of several productive classes rigidly reproduced through the generations, protected by ‘Guardians’ culled from the population at an early age and indoctrinated in the knowledge of the forms, appears oppressive and cult-like to the contemporary eye.

Nevertheless, both claim to offer universal truths of institutional form and predictive content applicable for an undisclosed temporal horizon. Inspired by Horkheimer and Adorno’s (1947) *Dialectic of Enlightenment*, the following chapter aims to investigate the interactions between these divergent disciplines, focusing not on the changing content of their conclusions, but the form of argument justifying them. Following an elucidation of how arguments about justice are formed and illustrated by an examination of classic theories, I will come to argue that the primary theory of social justice applied in contemporary CPE, the capability approach’s

² (Horkheimer, 1972: 196)

(Sen and Nussbaum, 1993) transformation into the SIP (Esping-Andersen, 2002a; Hemerijck, 2013), becomes increasingly myopic in its unacknowledged support of the ideological status quo. This transformation is not the work of a duplicitous ideological agenda however, but the nature of argumentation grounded in positivist epistemology characteristic of contemporary CPE – thus necessitating the turn towards Critical Theory in the following chapter.

I. Mode of Argumentation in Theories of Justice

Despite immense differences in content, classical and early modern theories of justice have similar modes of argumentation, first defining the character of individuals and the social world, then deducing the content of just institutions. Difference in content thus derives from differing definitions of both individuals and society, which stand prior to the analysis of social justice. These definitions align with *holistic* or *individualist* ontologies (Rothstein, 1998:31; Tilly and Goodin, 2006) and are largely irreconcilable – with acceptance of the theory of justice dependent on intuitive agreement with the definition of human nature. I will illustrate this form of argument through brief contrasts between classic theories, highlighting the problems of this mode of argumentation, before turning to John Rawls’s proposed solution. In so doing, I elucidate the basic paradoxes accompanying argumentation in both political theory and CPE.

I.A. Argumentation in Classic Theories of Justice

Plato’s classical theory begins with a refutation of Thrasymachus, who contends that justice is “nothing other than the advantage of the stronger” (Plato, 1992:14). Like Aristotle, Plato contrasts justice with *tyranny* in which power is arbitrarily exercised by a tyrant utilising only coercive force to compel behaviour among subjects (Aristotle, 1923:Book IV). Justice thus requires a lack of arbitrariness in imposing behaviours on individuals by the socio-political

order, implying the need for a universal conception of common good tying together a political community. Nevertheless, for Plato, freedom from arbitrary coercion applies to the body politic of the city-state and not necessarily every individual within it. The social unit is placed above the individual, as “each of us has within himself the same parts and characteristics as the city” (Plato, 1992:111) and justice is equated with a harmonious city governed by a philosopher king imbued with knowledge of the forms. Although resting on an early form-based epistemology, the actual institutions discussed throughout *Republic* reflect the socio-economic character of Greek city states, suggesting a *holistic* ontology.

Following a millennium of acrimonious debates over earthly authority in contrast to eternal conceptions of divine justice, in which the social unit is distinctly tied to shared religious beliefs (Augustine, 1972; Aquinas, 1987; Luther and Calvin, 1991), a modern argument based on secular deductive reasoning arrived with Thomas Hobbes’s (1996) *Leviathan*, written during the English Civil War of the 17th century. The infamous Hobbesian *state of nature* defines humans as passionate and impressionable beings in a material world who, when acting rationally, construct their own institutions of authority to avoid perpetual violence. This sovereign authority “is enabled to conform the wills of them all, to peace at home, and mutual aid against their enemies abroad” (Hobbes, 1996:114). In contrast to Plato, who begins with the city-state as an ontological fact and subsequently structures institutions of power around knowledge of the forms, followed by a harmonious social order directed towards the form of the Good, Hobbes’s argument is ontologically *individualist*, with his definition of individuals justifying an autocratic institutional configuration with the normative end of civil peace and common defence.

Reflecting the cessation of civil war in England and incipient rise of bourgeois modernity, Locke’s (1980) understanding of the state of nature is far more benign. For Locke, individuals in a state of nature are in “*a state of perfect freedom*” which, in relation to others,

is a “*state also of equality*” (Locke, 1980:8) whereby individuals conforming to the law of nature will rationally seek to preserve others as much as themselves. We are born in a world of perfect freedom, in which rational individuals develop and preserve their property, and only through excessive self-love and a spiralling dynamic of retribution for selfish acts does disorder and violence result (Locke, 1980:12). Rational individuals thus form governments for “the mutual *preservation* of their lives, liberties and estates, which I call by the general name, *property*” (Locke, 1980:66). Ontologically, Locke’s theory is one of *synchronic individualism* in which men are born into perfect freedom and as such, “this has been the practice of the world from its first beginning to this day” (Locke 1980:62). Following this definition of the timeless individual (ie. *synchronic*), institutions of social cooperation (ie. the state) are set up as limited functional mechanisms to preserve the life, property, and therefore *liberty* of individual men as the normative end of society.

Writing during the late French Monarchy, Rousseau argues that love of the self and pity towards others’ suffering characterises human behaviour in the state of nature (Rousseau, 1984:70). However, the innate human faculties of free-will, self-improvement, and language transform this equal existence predicated by nature’s bounty, into an existence where social convention dominates individual lives to an ever-increasing degree (Rousseau, 1984:87-90). Through familial differentiation and sedentary living following the agrarian revolution, the implementation of private property, the right to which “is only conventional and of human institution” (Rousseau, 1984:128) resulted in the “stifling of natural pity and the as yet feeble voice of justice” (Rousseau, 1984:120), exacerbating inequality and violence between social classes. To overcome this problem, citizens submitted to a sovereign authority (ie. the king) to dispense justice. Nevertheless, this monarchy likewise degenerated into arbitrary tyranny because “the vices which make social institutions necessary are the same vices which make the abuse of those institutions inevitable” (Rousseau, 1984:131). Rousseau (1968:60) thus asks:

“How to find a form of association which will defend the person and goods of each member with the collective force of all, and under which each individual, while uniting himself with the others, obeys no one but himself, and remains as free as before”? Rousseau advocates totalising the dominance of social convention through equal and universal submission to *the general will*. If premised on absolute equality between citizens, then binding social institutions (ie. laws) are transient and limited as each serves whatever normative end the community sets (Rousseau, 1968:149). Ontologically, Rousseau’s theory is thus one of *diachronic holism* in which humans are products of their place in social history. The institutions of society are socially constructed and just institutions are predicated at any given time on their *equality* and universalism as a precondition for liberty.

Table 2.1: Classificatory Sketch of Classical Theories of Justice

	Ontology	Just Institutions	Societal Ends
Plato	Synchronic Holism	Philosopher King ruling through the knowledge of the Forms	Societal Harmony based on the Form of the Good
Hobbes	Synchronic Individualism	Submission to Sovereign	Peace and Common Defence
Locke	Synchronic Individualism	Consent, Limited Government, Protection of Property	Preserving Natural Liberty
Rousseau	Diachronic Holism	Absolute Equality	Active Liberty through General Will

Table 2.1 schematises the basic structure of argumentation in these classic theories, with each dependent first on an irreducible definition of human nature, followed by a conception of just institutions, before articulating the presumed norms of liberty and harmony humans endeavour to achieve consistent with their nature. Although Plato’s Socratic dialogues differ somewhat, this form of argument, definition and deduction, is characteristic of

Enlightenment thought, in which ostensibly factual conditions of human nature and their normative ends align in a single intellectual exercise.

Problematically, the tension between individual liberty and social equality, already present in the contrast between Locke and Rousseau, is resolved only through unwavering commitment to the definitional foundations of the theory, leading Locke to justify patriarchy and slavery as *natural rights* of white men, and Rousseau's thought degenerating into the abuse of power enforcing equal conformity to the general will – an abuse witnessed during the French Revolution and beyond (Constant, 1988; Nisbet, 1943). A reasonable resolution of this tension is thus implausible when the mode of argumentation is built on irreducible ontologies. Although recognised by Rawls, when examining the form of argumentation in CPE, we will come to find precisely the same problem: the irreconcilability of competing approaches deriving from their ontological assumptions.

I.B – Rawls and Reflective Equilibrium

Against classical contract theorists, Rawls considers it “impossible to develop a substantive theory of justice found solely on truths of logic and definition” (Rawls, 1999a:44). Rawls thus abstracts to an ‘original position’ in which *rational* individuals who “know the general facts about human society” (Rawls, 1999a:119) are deprived of awareness of their specific circumstances under a ‘veil of ignorance,’ before establishing an institutional order based on ‘justice as fairness.’ Following this empirically infeasible (Rawls, 1999a:11) but useful device, he discerns two principles of justice which are lexically ordered: 1) equal right to basic liberties, particularly free speech, ensured to all – what Rawls terms ‘primary goods’; and 2) “social and economic inequalities are to be arranged so that they are both (a) reasonably

expected to be to everyone's advantage, and (b) attached to positions and offices open to all" (Rawls, 1999a:53).

Rawls reaches this conclusion through an *epistemological* device, designed to ascertain the truth of a given statement, called 'reflective equilibrium' – a dialogue between competing definitions and culturally-informed judgments of a given situation. Equilibrium results when the contradictions between multiple points of reference (considered judgments), each requiring either revision or preservation through rational argumentation, are eventually resolved into universal principles transcending culturally-informed subjectivity. Reflective equilibrium is thus designed to shift from cultural norms posing as facts, such as Locke's definition of natural rights – unsurprisingly convenient for propertied Englishmen in the 18th century – to universal justifications rooted in the structure of language (Azmanova, 2012b:69). Institutionalising this epistemological device in practice, Rawls' first principle focuses on the procedures of political justice (ie. the procedure by which definitions of moral judgment are publicly agreed upon) as a means of reaching reflective equilibrium *between* individuals. Rather than conceptualising democracy as consent of the governed therefore, Rawls argues that democratic deliberation is necessary for establishing shared conceptions of moral meaning.

In terms of the second principle (coined the 'difference principle'), Rawls argues for a surprisingly egalitarian outcome. First, because inheritance is unknown in the original position, shifts in distributive shares resulting from property laws must always benefit the worst off to ensure universal acceptance under the veil of ignorance. Secondly, because natural abilities are also unknown, the differing outcomes derived from the exercise of individual talent is likewise subjected to redistribution – regardless of 'natural rights' to receive one's own (Callinicos, 2000:47). The purpose of this arrangement is to ensure a 'well-ordered society' in which reasonable choices between rational life plans are available for every individual. The normative end of just institutions thus maximises the opportunities for all to develop and achieve their

individual aspirations. The liberty to choose life plans and justice as fairness in distributing the opportunity to do so derive from an epistemological device of truth formation, followed by reasonable argumentation (Rawls, 1999a:285-292).

Although justifying his conception of human nature through reflective equilibrium, arguing individual aspirations fulfilled through a life plan suggests Rawls settles upon a *methodological individualist* ontology. Because a rational life plan is “what we would adopt with full deliberative rationality if the future were accurately foreseen and adequately realised in the imagination” (Rawls, 1999a:370), the plan itself is not a social norm, but a means to achieve individual aspirations. Deliberative rationality is based on honest self-reflection in which “the facts are correctly assessed” (Rawls, 1999a:367) followed by deciding on a lifecourse. After the decision is made, the individual does not deviate as “a rational person does not come to feel an aversion for the foreseen consequences so great that he regrets following the plan he has adopted” (Rawls, 1999a:370). The normative foundation of this behavioural assumption is drawn from the Aristotelian Principle, “a principle of motivation” (Rawls, 1999a:375) in which happiness is attained through exercising individual talents and refining them towards excellence. Individual liberty and happiness are thus achieved through a social order functionally arranged to maximise individual liberty balanced by equality of opportunity.

Rawls has influenced the *capability approach* to social justice considerably – one of the few theories which has had a significant impact on the empirical research of labour market institutions. However, Rawls’s use of reflective equilibrium to justify his conclusions assumes no contradiction between universal reason and democratic pluralism (Mouffe, 2005) – suggesting all democratic engagement should be consensus-oriented. Secondly, as a method of justification (Scanlon, 2002), it also assumes individual subjects engage in the same form of subjective cognition (Stitch, 1988). In short, when brought to a more empirical level, reflective equilibrium tends to be the reflections of elite experts, rather than everyday individuals

participating in labour markets. Consequently, whilst the importance of democracy as an organisational principle for discovering social norms is evident, we cannot assume these will align into a singular rational consensus because what is considered reasonable potentially differs across subjects. Therefore, 1) how reason is defined, as well as how to determine a fact, become essential for operationalising a theory of social justice for empirical application, suggesting we must delve further into epistemology to establish a workable theory; yet 2) we must nevertheless accommodate pluralistic conceptions of individually-rational behaviour, lest our conception of individual rationality merely reflect elitist musings. As will be demonstrated below, the capability approach eventually adopts a positivist epistemology to resolve these dilemmas of fact-formation, reason, and pluralism, effectively circumventing them through grounding their manifestation in ‘facts’ provided by empirical research.

II. The Capability Approach and the Welfare State

The capability approach takes Rawls’s emphasis on the liberty to pursue individual life plans and attempts to empirically identify what institutional configurations are needed to maximise the opportunity to execute them. This is accomplished through redefining Rawls’s primary goods as empirical measures of individual capability enhancement (Sen, 2009:66). The capability approach thus offers a myriad of empirical measurements based on the physical, economic, social, and psychological prerequisites for individual *functioning* (Nussbaum and Sen, 1993). “*Functionings* represent parts of the state of a person – in particular the various things that he or she manages to do or be in leading a life. The *capability* of a person reflects the alternative combinations of functionings the person can achieve, and from which he or she can choose one collection” (Sen, 1993: 31). Following this lead, the first Human Development Report initiated the Human Development Index (HDI) in 1990 and defined “human

development [as] a process of enlarging people's choices" (UNDP, 1990:1) largely through enhancing their capabilities. However, developing such a universal index presents a dilemma between theory and method in empirical research, emerging from the subjective choice of prioritising certain functionings. Therefore, the form of argumentation justifying specific functionings is key to understanding the myriad of approaches to the capability approach. As demonstrated through comparing the argumentation of Nussbaum, Sen, and Rothstein, this exercise becomes increasingly problematic by focusing on the means of capability enhancement whilst assuming the allocation of life plans through labour markets is an exogenous fact.

II.A - Nussbaum

Somewhat echoing the paradox of Rousseau's conception of individual liberty and the general will, Nussbaum begins with the assertion that: "we want universals that are facilitative rather than tyrannical, that create spaces for choice rather than dragooning people into a desired total mode of functioning" (Nussbaum, 2000: 59). She then offers what could be termed a *hard* version of universalism directed towards individual rights, offering a number of "central human functional capabilities" which are as follows (Nussbaum, 2000:78): 1) life; 2) bodily health; 3) bodily integrity; 4) senses, imagination, and thought; 5) emotions; 6) practical reason; 7) freedom of affiliation both in a positive (live with others freely) and negative (free from discrimination) sense; 8) "live with concern for and in relation to animals, plants, and the world of nature" (Nussbaum, 2000:80); 9) play; and 10) control over one's environment both politically (ie. right to participate in decisions affecting oneself), and materially (right to personal property and participation in production).

Practical reason (6) and affiliation (7) “stand out as of special importance, since they both organise and suffuse all the others” (Nussbaum, 2000:82). The right to reason as an autonomous individual and affiliate with whomever one chooses is necessary to prevent someone from becoming an “appendage of someone else” (Nussbaum, 2000:83). This first requires an equal voice and choice in forms of public participation to contest social norms. It secondly requires a developed sense of practical reason to overcome ‘preference deformation’ (Nussbaum, 2000:Ch 2) emerging from one’s own oppressive socialisation. This is especially pronounced in underprivileged groups whose upbringing has often rendered a subjective preference for subordination to tyranny. Nussbaum thus reveals a strongly universal standard in her conception of the capability approach – a standard which may defy the empirical subject’s own preferences. Nussbaum employs the same epistemological device as Rawls: *reflective equilibrium* (Nussbaum, 2000:101) to justify this intervention.

Utilising reflective equilibrium to achieve universally standard capabilities should have identical results if reason itself reflects universal truths. Yet, Nussbaum includes ‘goods’ which are largely absent from Rawls, suggesting two important conclusions. First, deformed preferences inhibiting the exercise of individual reason in pursuit of life plans requires the recognition of historical injustice. Secondly, Rawls missed important elements of lived experience in his reflections – particularly of women – which were remedied by Nussbaum’s evidently closer apprehension of universal truth. However, due to her hard universalism, Nussbaum simply accepts that we do not start from an original position, but should nevertheless aspire to a situation which suggests that we did. Just institutions are thus built on individual capabilities which are transcendent of historical particularities in the treatment of certain mis-recognised groups, in effect *aiming* for a de-historicised individual functioning under universal postulates of ‘practical reason’ which “should be adopted because they appear necessary for our continued cultivation of our humanity” (Nussbaum, 1997:50).

Nussbaum's universality in content, combined with a support of Kantian cosmopolitanism (Nussbaum, 1997), has been critiqued as a mask for Western conceptions of human rights and the imperialist instinct of liberal capitalism (Douzinas, 2007), which she has since backtracked on (Nussbaum, 2008). Nevertheless, a universal conception of individual need, justified through reflective equilibrium, generally suggests human capabilities are subject to perpetual debate. Like Rawls, we must therefore accept that Nussbaum's variant of the capability approach suffers from subjective bias. Instead of critiquing the content of her concrete human capabilities however, perhaps the problem is reflective equilibrium itself and its inability to resolve the inescapable problem of cognitive diversity (Stitch, 1988). Instead, we must find another approach to ascertaining truth – Amartya Sen offers one: empirical positivism.

II.B – Sen

Whilst Sen also considers certain capabilities as universally necessary for a dignified human existence, he seems reluctant to endorse the hard universalism of Nussbaum through defining any specific capabilities. Instead, he articulates his “comparative” theory of justice opposing the “transcendental theory” of Rawls. Sen takes aim at the Rawlsian approach for its attempt to define perfectly just institutions and their unrealistic implementation in practice (Sen, 2009:99). Instead, Sen utilises social choice theory to arrive at seven principles:

- “1) Focus on the comparative, not just the transcendental; 2) Recognition of the inescapable plurality of competing principles; 3) Allowing and facilitating re-examination; 4) Permissibility of partial resolutions; 5) Diversity of interpretations and inputs; 6) Emphasis on precise articulation and reasoning; 7) Role of public reasoning in social choice” (Sen, 2009: 106-110).

Sen argues that achieving consensus on key capabilities should be linked to Adam Smith's notion of the impartial spectator. The impartial spectator allows for examining the reasonability of arguments made in any empirical situation based on three criteria: 1) their 'enlightenment' relevance; 2) comparative empirical assessment; and 3) plausibility of empirical realisation (Sen, 2009:134). In effect, Sen repackages Rawls's first principle applied, the imperative of exercising public reason, and renders it comparative and empirical through indices such as the HDI – thus rendering it more 'realisable'.

Sen's disparaging of 'transcendental' theory, instead advocating comparative analysis and realisable solutions, translates into advocating positivist epistemology – much different than Rawls or Nussbaum. Positivism broadly defined considers the historical progress of humanity as a product of ever-accumulating and ever more accurate scientific knowledge of empirical social laws, thus identifying modes of human organisation as law-like facts of causality, rather than relative normative orders. However, when these laws are translated into policy for a specific temporal horizon, positivist epistemology requires making a series of pre-suppositions about individual behaviour largely shaped by status quo institutional configurations. As Dean (2009) has thus argued, the key pre-suppositions of the capability approach are 1) methodological individualist ontology; 2) that public deliberation does *not only* "reflect prevailing hegemonic assumptions" (Dean, 2009:7); and 3) that whatever market trend is prevailing in the capitalist economy is external to questions of social justice. Markets, with a certain degree of regulation preventing negative externalities, are thus surreptitiously assumed to provide the greatest number of choices for individuals.

Notwithstanding the considerable advancement the capability approach represents in contrast to natural-rights based approaches like Nozick's (1974) – which rest on the assumption of universal property ownership – we encounter an impasse when comparing Nussbaum and Sen. Although we cannot assume reflective equilibrium in the mind of an expert is sufficient

to establish the universal content of human capabilities, we also cannot characterise the empirical status quo as containing incontestable facts with which to make progressively more just comparisons. The first and third pre-supposition highlighted by Dean (2009) may thus reflect a violation of the second, an observation illuminated only by ‘transcendent’ reflection. However, that reflection originates not with abstract definitions, but *critical thought* – an alternative mode of argumentation. Fortunately, one of the first instances of the capability approach applied to CPE, Rothstein’s *Just Institutions Matter*, is itself partially substantiated by a critical analysis of empirical studies.

II.C – Rothstein

After a qualitative examination of the Swedish welfare state alongside some quantitative comparison to other advanced economies, Rothstein (1998:157-8) explicitly endorses the capability approach in his discussion of *substantive justice* in welfare states. However, his other two categories of social justice – *procedural* and *just distribution of burdens* – restricts his empirical focus to fitting illustrative examples, primarily those involved with the service provision of various capability-enhancing policy spheres such as childcare, healthcare, and education. Each of these services provides material support for individual capabilities and legitimacy for political power holders overseeing a welfare state – with Rothstein’s critical analysis concluding both are enhanced by a universal, service-based welfare state, rather than a limited and residual one.

The structure of Rothstein’s argument begins with the principle of ‘equal concern and respect’ drawn from Rawls (Rothstein, 1998:32) which “prohibits the state from restricting citizens’ freedom to choose and to pursue such life projects as they themselves see fit; in particular, this freedom may not be confined just because the majority takes the view that the

life projects of certain citizens are morally or socially superior to those of others” (*Ibid.*). He then moderates this principle through an empirically substantiated section on what the state *can do* by referencing implementation research, generating an epistemic model focused on the dimensions of substance and process. He analytically isolates the state, yet embeds it in “external conditions (economic, social, political)” (Rothstein, 1998:73) before highlighting how the legitimacy of a given social policy programme implemented into the body politic rests on both the individual self-interest of citizens, as well as social norms about general fairness and solidarity – a finding supported by Mau (2003).

Despite this “dual utility function” (Rothstein, 1998:136), suggesting a fragmented synthesis between holistic and individualist ontologies, Rothstein’s assumptions are suffused with a methodological individualist conception of human behaviour. In addition, his implicit acceptance of the design of empirical studies he cites, through isolating the state from external conditions, becomes problematic in the context of labour markets because participation in social labour is central to the realisation of a life plan, yet the realisation of that life plan is not premised on equal concern and respect, but on market conditions analytically separated from the ostensibly neutral state. Problematically therefore, how capabilities are employed is assumed as a conscious choice of the methodological, utility-seeking individual, rather than an outcome of power relations in the market. Yet, *if participation in social labour is integral to the realisation of a life plan, then the capability to participate does not equate to freedom of choice under conditions of market competition.* Thus, the *social relations* of market competition, crucial for producing the very wealth required to fund a capability-focused universal welfare state, as well as realise life plans, are external to his model of social justice. This becomes a serious oversight the more we empirically investigate labour market participation – as will be demonstrated throughout this thesis.

To conclude this section, the Rawlsian shift towards epistemological justifications for theoretical premises of social justice, characteristic of the capability approach, present a welcome advancement from theories of justice built on definition and deduction. Nevertheless, the capability approach's universal justification of methodological individualism as a central ontological assumption presents a problem when aligned with a positivist epistemology resting on the traditional distinction between market and state in empirical research. In order to demonstrate precisely how this is a problem for social justice, I will turn to examining recent scholarship in CPE.

III. Labour Market Institutions in the Varieties of Capitalism and the Social Investment Welfare State

Positivist epistemology dominates mainstream research in the subdiscipline of CPE, with debates about the causal origin and presumed purpose of political-economic institutions. A positivist epistemology implies the classification of empirical data into generally-accepted categories, followed by inferences about the data to hypothesise ever more specific and accurate causal connections useful for political agents independent of their normative implications (King, et. al., 1994). For labour market institutions, this focus on causal explanation necessitates categorising some variables as external to the analysis, as well as making ontological assumptions about agents' behaviour in the market. Much like Rothstein's externalisation of market allocation from his study, methodologically individualist agents interacting in labour markets is rendered a factual reality exogenous to questions of social justice. Considering agent behaviour and market allocation as external to evaluating social justice is an intellectual choice. This choice effectively substantiates the ideological agenda justifying the policies undergirding the Hartz Regime, yet transmutes it into a scientific and

thus external fact requiring adaptation by labour market institutions. This intellectual exercise is called *reification*.

In order to reflect empirical reality without subjective bias, what was once a product of reflective equilibrium for Rawls and Nussbaum, returns to a form of argumentation based on ontological definition and deductive reasoning substantiated by empirical tests of the status quo. Social justice is effectively purged from empirical analysis, because it is assumed to align with capability enhancement for labour market participation. I will demonstrate this process, echoing the one explored in Horkheimer and Adorno (1947), through examining the rise of the Varieties of Capitalism (VoC) tradition and the SIP in CPE, before outlining the need of Critical Theory.

III.A – Origins: Diversity and Debate prior to Social Investment

Esping-Andersen's (1990) classic work *The Three Worlds of Welfare Capitalism* is a useful starting point for exploring the trajectory of CPE, as it incorporates an argument of institutional origins and a quantitatively generated typology which has endured in its descriptive power (Schröder, 2013). It emerged from Power Resources Theory (PRT), which argued that working class mobilisation through unionisation and socialist party success forced the bourgeois establishment of the 19th century to compromise and form the welfare state prevalent in the Western OECD countries by the mid-20th century (Korpi, 1983; O'Connor and Olsen, 1998). In explaining the causal basis of the 'three worlds' of welfare capitalism, Esping-Andersen argues that the capacity for socialist movements to forge alliances with agrarian or emergent white-collar middle classes was essential for institutionalising the key institutional concept of his study: de-commodification, which means "when a person can maintain a livelihood without reliance on the market" (Esping-Andersen, 1990:22).

Ontologically, although Esping-Andersen conceptualises agents at various levels from individual to society, he clearly follows the *relational realism* characteristic of Marxian class conflict (Esping-Andersen, 1990:36). Workers are potentially rational agents imprisoned by historically malleable institutional structures, such as private property and the imperative of wage labour. Individual positions are determined by *relative power* more than their rational choices, with these positions aggregated into social classes underpinned by property ownership. Therefore, individual choices are a product of social class rather than rational thoughts of methodological individualists or reflections of a holistic society, and more decisively, institutions are not reflections of social justice, but of *political power*.

Bonoli (1997) critiqued Esping-Andersen's approach from the perspective of state finances – shifting conventional variables used in welfare state research. He argued that welfare states should be classified as either as Beveridgean or Bismarckian, based on their relative levels of tax-financed welfare provision (Beveridge) or social insurance-based welfare provision (Bismarck). Mostly following Bonoli's state finance approach, Paul Pierson's (2001) influential reader *New Politics of the Welfare State* combined several scholars examining the contemporary pressures leading to widespread retrenchment in welfare expenditure. Instead of working class mobilisation however, suddenly global competitiveness and fiscal discipline in the face of international competition became causal factors (Iversen, 2001) behind institutional re-configuration and shifting spending patterns (Swank, 2001), as well as incipient studies of inequality (Huber and Stephens, 2001). The reader edited by Esping-Andersen and Regini (2000) likewise departed from the de-commodification approach, instead emphasising the necessity of fiscal consolidation and employment generation. In short, explaining the origins of welfare regimes underwent a significant transformation in the 1990s – from working class mobilisation seeking de-commodification to retrenchment in the face of catch-all pressures like de-industrialisation and globalisation. Likewise, by the late 1990s, the new paradigm redefined

the purpose of welfare state policy from de-commodification to *activation* (Swank, 2002; Jo Martin, 2004; Azmanova, 2010). This shift in welfare state research paralleled the shift towards conceiving state redistribution as normatively linked with active labour market policy – in politics, known as the Third Way (Blair and Schröder, 1998; Giddens, 1998; Giddens, 2000; Giddens, et. al. 2006) and precisely the intellectual source of the Hartz Regime. Because activating welfare recipients into private employment implies the participation of private firms, this paradigm shift paralleled Hall and Sockice's firm-centric (2001) Varieties of Capitalism (VoC) approach to broader socio-economic questions in CPE.

Hall and Soskice sought to “bring firms back into the center of analysis of comparative capitalism and, without neglecting trade unions, highlight the role that business associations and other types of relationships among firms play in the political economy” (Hall and Soskice, 2001:4). Drawing from the disciplines of macroeconomics and business studies, labour market institutions were re-interpreted to reflect how workers could be efficiently employed by firms – through the specialisation of their education, the flexibility of employment contracts, or the structure of worker-management relations. The VoC approach argued that the coordination of risk and information management by firms was through market-based or strategically-oriented institutions. Crucially, ‘complementarity’ (Crouch et. al., 2005) must exist between these institutions, suggesting “that nations with a particular type of coordination in one sphere of the economy should tend to develop complementary practices in other spheres” (Hall and Soskice, 2001:18). Although firms operating in different sectors may have a penchant for market or strategic coordination, thus finding certain country-specific institutional environments more conducive to their sector-specific needs, firms as universal profit-maximising actors strategically place themselves into these institutional environments in either case. Therefore, non-complementary institutions undermine firms’ competitiveness, ultimately leading to

stagnant socio-economic performance and declining comparative advantage – with global competitiveness the assumed purpose of all political-economic institutions.

Ontologically, firms are understood as strategic actors within an institutional environment functionally arranged for their maximum profit – whether through encouraging market-based or strategic coordination (Hancke et. al., 2009:273). In effect, like the liberal theories of justice examined earlier, VoC approaches tend to conceive of institutions as resulting from the timeless interests (ie. synchronic) of individualistic actors (ie. firms), thus classifying the approach as *methodological individualism*. With aggregate output of the national economy measuring ‘performance’, institutions governing labour market policy become functional systems to facilitate the profitability and growth of firms which drive these performance indicators. Through this reconceptualisation and its numerous followers, concerns for social justice are effectively eliminated, consigned to the neglected category of “culture” and “history” (Hall and Soskice, 2001:11).

Empirically, the VoC approach argued for a typological dependent variable between Liberal Market Economies (LMEs) and Coordinated Market Economies (CMEs), with the United States and the United Kingdom exemplifying the former, while Germany exemplified the latter. This dichotomy followed decades of comparative empirical research in which Germany is almost always held up in opposition to the UK and the US (Streeck, 2010). The operationalisation of institutional complementarity offered robust findings until the 1990s and into the 2000s – when the theoretical framework started to lose empirical validity, including for the German case (Hall and Gingerich, 2009). Despite waning empirical validity, the VoC approach nevertheless became influential through explaining how institutional differences could exist despite similar exogenous pressures like globalisation. Secondly, it explained how these differences could be considered ‘rational’ forms of organisation if we consider firm profitability the purpose of institutions. Finally, due to its complementarity with Third Way

politics, its firm centricity justified focusing on the “productive function of social policy” (Hemerijck, 2013:37) effectively legitimating the competitiveness mantra of neoliberal political ideology.

The subsequent history of the VoC paradigm is marked by an erosion of its foundational claims which were unable to account for political power or institutional change. Amable (2003) for instance highlights that “the presence of distributional issues in economic situations is probably much more common than pure coordination” as suggested by VoC practitioners (Amable, 2003: 39). Therefore, the messy instances of historical change remained poorly explained by a rigid adherence to the functionalist model of institutions in the VoC approach. These shortcomings ultimately led Peter Hall to admit a form of historical institutionalism, rather than rational functionalism, to explain institutional change (Hall and Thelen, 2009).

Historical institutionalists focus on how historical compromises determine path-dependent and divergent trajectories ultimately resulting in capitalist diversity. Thus, institutions have a life of their own under this holistic ontological conception – understood as both guides and reflections of social practices embedded in different cultural norms (Dore, 1983; Dore et. al., 1999) or at least historically routinised rules of the game (Streeck and Thelen, 2005). Kathleen Thelen’s (2004) comparison of four countries’ institutions of skill-formation exemplifies the approach. Thelen postulates that relatively liberal states allowed greater leeway for workers to organise during the early period of industrialisation, whilst authoritarian states did not. This led to greater firm-based skill formation and industry-specific skills in authoritarian Germany and Japan, while individual acquisition of general skills marketable across the labour market developed in the more liberal USA and UK. The distinctions between Germany and the Anglo-American varieties of capitalism are thus reflections of historical path-dependency rather than rational attempts to establish forms of institutional complementarity suitable for firms.

Streeck (2009) recently broadened Thelen's specific focus on institutional path-dependency, conceptualising capitalism itself as a specific institution echoing Karl Polanyi (1944). Institutions are not static entities which channel behaviour mechanically, but reflect a dialectical struggle between the organising principles of marketisation and social protection. Because technological progress is continually transforming the structure of the economy, new strategies emerge in which actors erode the intent and function of institutions in a quest for liberation from social constraints. This is particularly the case for capitalists, who "as social characters may be modeled as lacking any normative-expressive attachment to social institutions enforcing collective solidarity, in the sense of restraint on the pursuit of individual interests" (Streeck, 2009: 241). In short, capitalists are methodological individualists within a *holistic* society which generally discourages such behaviour. Therefore, market or strategic coordination reflects not sectoral preferences or socio-political equilibrium, but ideological struggles influencing micro-level social practices – with 'social justice' aligned with the social protection of holistic society, whilst 'market justice' aligned with supporting the methodological individualism of firms (Streeck, 2014:Ch.2).

Although a Marxian relational ontology underpinned Esping-Andersen's (1990) key study in CPE, the subsequent development of the subdiscipline reflected a debate between methodological individualist VoC practitioners, and holistic historical institutionalists. This debate is rooted in commitment to an ontology and thus parallels the same dead end of irreconcilability in classic theories of justice. With the waning novelty of defining and determining the effects of globalisation on the state, the debate shifted away from the causal basis of the reform and/or comparative advantage towards assessing outcomes of social policy in terms of both economic performance and 'social justice' – with conceptions of the latter again deduced from irreconcilable ontological assumptions. Although Streeck (2014) offers a very rudimentary theory of social justice built on Polanyi's conception of social protection, the

individualistic approach became more prevalent through the SIP – bolstered by the rise of Third Way hegemony in the 2000s. Empirical implementation of social investment recommendations thus established the SIP not only as a normative theory of justice, but a scientifically-verifiable causal basis for enhancing competitiveness in the vein of the VoC approach.

III.B – The Social Investment Paradigm

Advertised as an alternative to the post-war welfare state focused on the passive mitigation of social risks, and drawing explicitly from a “broadly Rawlsian framework” (Vandenbroucke, 2003:xix), Esping-Andersen at. Al.’s (2003a) *Why we Need a New Welfare State* first defined the SIP in CPE. Heavily linked to the EU definition of the European Social Model, the SIP argues for opportunity-enhancing and activating welfare states, as well as the Open Method of Coordination (OMC) between EU members. Reflecting the 1990s language of a ‘new, knowledge-based economy’, SIP advocates argued “participation in social life is crucial for gaining respect from others and self-respect... [and] this normative rationale necessarily refers to participation in society in the broadest sense, rather than participation in the labour market” (Vandenbroucke, 2003:xi-xii). Linked with this broad definition of social participation, the notions of *equality in participation* – primarily focused on gender – and *personal responsibility* became the normative goals of socially-just welfare policy.

However, although couched in the language of investing in children equally and offering multiple routes towards social integration, the link between personal responsibility and labour market participation was evident from the outset (See Esping-Andersen, 2003b:21). Despite Vanderbroucke (2003) explicitly suggested that *participation* in society went beyond labour market participation, a leading architect of Third Way politics utilises the same language to suggest otherwise:

“Perversely, some continental welfare states have maintained entitlements that encourage an insidious conception of negative freedom: remaining outside work in the most agreeable income conditions possible. This undermines active participation – the precondition for dignity and self-fulfilment – and the effective freedom to act and to choose. The opportunity to participate actively in society should be the right of everyone... This reinterpretation inspires an ideal of social justice focused on freedom” (Diamond, 2006:178).

Participation thus became equal to labour market participation and enhancing capabilities for labour market participation became the goal of socially just institutions. The welfare state was reconceived as an educational and disciplinary tool to encourage maximum employment for both genders (Esping-Andersen, 2003b). The SIP thus transformed the capability approach into a body of assumptions supporting Third Way ideology. Third Way policy proscriptions, pioneered in Germany and the UK, became integral to the EU social policy agenda both in the Lisbon Treaty and the Europe 2020 strategy which followed (Hemerijck, 2013). Considering the SIP has thus become a mainstream approach in both European social policy and CPE, we must ask: how do we know it is an appropriate theory of social justice for empirical research?

Anton Hemerijck (2013) has taken the tentative step of partially operationalising the SIP. Utilising positivist epistemology to justify its necessity, Hemerijck first gleans several exogenous variables affecting contemporary welfare states from studies emerging in the VoC tradition. He thus transforms what was originally a theory of causal relations between institutions and comparative advantage, into a set of exogenous facts. Because positivism broadly understood presumes that establishing scholarly convention regarding a specific issue is sufficient to treat its implications as exogenous fact, normative arguments supporting the capability approach are in turn transformed into causal measures which generate

‘participation’. With participation now equating to employment, capability enhancement is thus transformed into an instrument of employment policy. This rather astonishing shift from normative theory towards factual necessity deserves further examination.

Hemerijck first outlines a substantial number of exogenous variables called ‘impact factors’ to which welfare states must adapt. These exogenous variables are classified into five categories, with the following subheadings (Hemerijck, 2013:Ch. 3):

1. *Internationalisation*

- a) Trade competition*
- b) Financial globalisation*
- c) Austerity bias in macro-economic policy*
- d) Looming tax competition*
- e) Strengthened power of capital*

2. *Postindustrial Social Change*

- a) Shift to services*
- b) Family and gender role change*
- c) More female employment*
- d) Immigration*

3. *Staying power of old commitments*

- a) Rising old-age dependency ratio*
- b) Old-age vested interests*

4. *EU Integration*

- a) Single market increases firm competition*
- b) Open method of coordination limits scope of social policy*

5. *Rise of National-welfare chauvinism*

- a) Breakdown of left/right axis*

b) *Narrative of 'Paradise Lost'*

c) *Anti-EU sentiment*

Why some of the categories in Hemerijck's list are presented as exogenous empirical facts remains unanswered. For instance, Hemerijck describes 'austerity bias' in the following manner: "In the shadow of capital mobility, domestic policy priorities, such as full employment and income equality, have thus been subordinated to public finance balance of payments and low inflation fiscal and monetary policies" (Hemerijck, 2013:56). Although bolstered by after-the-fact statistical data, Hemerijck employs the language of facticity to describe a phenomenon which emerged from political decisions to liberalise capital flows, as well as ideological pressure from employer-sponsored 'research' (van Apeldoorn, 2000; 2001). Nevertheless, through describing decisions on state finances as factual realities, institutional reconfiguration becomes a necessary technocratic exercise – rather than an exercise of political power to implement normative commitments.

Hemerijck calls these technocratic necessities forms of *recalibration* – the process by which institutions adapt to exogenous facts. "Recalibration suggests that reform decisions nearly always pass through, and are based upon, *cognitive* and *normative* judgement, *distributive* bargaining, and *institutional* redesign, in an attempt to improve policy performance" (Hemerijck, 2013:88). In other words, the content of individual cognitive processes, including normative orientations, must be transformed to recognise the fact of capital mobility and austerity bias. More specifically, recalibration comes in four forms: 1) functional, which means shifting the function of existing institutions, 2) normative, which effectively means that subjects must shift their conception of social justice to adapt to the increased power of financial capital; 3) institutional, which means that responsibilities for certain social policy objectives are re-assigned to local, national, or EU levels; 4) distributive,

in which new cleavages between generations, genders, and marginalised outsiders have overtaken the distributive struggle between capital and labour.

The various recalibrations undertaken by policy elites result from *social learning* – an approach to explaining institutional change through making it contingent on the learning capacities of key elites and the general population as reflected in party manifestos and voting patterns. Elites and parties thus ‘learn’ to change their institutional systems to adapt to exogenous pressures from the market, using comparative examples as points of reference to gauge institutional reforms which ‘increase performance’. Moreover, once changes are instituted, then the subjects of decisions made by policy elites (ie. citizens), must undergo a normative shift in which their conceptions of social justice and expected action orientations towards labour market participation must also shift. This logic effectively argues that citizens should learn to adopt the normative commitments of their policy elites, who must themselves learn to accept that decisions made by global capitalists and EU technocrats are incontrovertible facts of reality closed to political contestation. Such blind acceptance of capitalist globalisation and technocratic subversion of political contestation naturally bolsters Streeck’s (2014) argument that contemporary capitalism is undermining democracy, but this is hardly a new observation (Gramsci, 1971; Mouffe, 2000; Ryner 2002). What is more intriguing is *how* Hemerijck justifies his description of reality.

Hemerijck argues that this normative shift is not a normative shift at all, but a greater understanding of social facts which bolster the capability approach to social justice:

“The changes listed above have contributed to a slow redefinition in the very idea of social justice: a shift away from understanding fairness in terms of static income equality towards an understanding of solidarity and fairness as an obligation to give due support to the needs of each, individually, so as to

enable all to flourish... At the heart of the new welfare state *Gestalt* lies a reorientation of social citizenship, away from the compensating *freedom from want* logic towards the capacitating logic of *freedom to act*” (Hemerijck, 2013:39).

In other words, normative shifts are themselves empirical truths. These empirical truths reflect the appropriation of the capability approach to social justice by Third Way advocates, who captured some states in the late 1990s and early 2000s, argued for new and more nuanced empirical measurements beyond merely income, subsequently embedding these measures of ‘performance’ in European institutions and data sources whilst implementing their policies through institutional reforms like Hartz. Until 2007, Hemerijck thus sees ‘performance’ in places like Germany, Netherlands, and the Nordic countries almost exclusively through the measurement of employment generation (Hemerijck, 2013:Ch.7) or economic growth – effectively endorsing the Hartz Reforms as progress towards social justice. Indeed, other studies in the SIP have directly identified the Hartz Reforms with a form of social investment (Bonoli, 2012:200) due to the shared advocacy of active labour market policy (ALMP). Far removed from Nussbaum or Sen’s nuanced philosophical discussion of human freedom, these studies highlight that “the knowledge-based economy thus rests on a skilled and flexible labour force, which can easily adapt to the constantly changing needs of the economy but also be the motor of these changes” (Morel, et. al., 2012b:1). The SIP thus becomes the most ‘reasonable’ instrument of welfare policy adapting to the exogenous facts of the knowledge economy because its proscriptions generate employment and growth generally, and particularly in “knowledge intensive services” (Nelson and Stephens, 2012:212). By conceiving ‘the needs of the economy’ as exogenous to political intervention via the welfare state, the SIP represents a technocratic adaptation to the knowledge-based economy, but also an *exclusively supply-side and ultimately firm-centric labour market policy*.

However, such an intellectual exercise loses sight of social justice altogether, immediately evinced by the absurd assumption that more people getting a job equates to a more just society. Since the GDR claimed to have an employment rate of 98% (AV10), why not re-establish a Communist dictatorship in Germany? This glib observation demonstrates the problem of attempting to align an ostensibly universal theory of social justice with a causal argument for economic performance. In so doing, the SIP becomes a causal hypothesis potentially valid within a specific temporal horizon of a capitalist normative order, but not an empirically applicable theory of social justice. Despite the centrality of realising life plans for social justice and individual freedom expressed by every single theory of justice examined since Rousseau, assuming the decisions of the very agents allocating those life plans, employers, as exogenous fact presents a serious epistemological problem prevalent in positivist approaches in CPE generally – a problem outlined in the conclusion below.

IV – Conclusion: Reification and the Need for Critical Theory

Following the positivist mode of knowledge generation, the assumptions establishing conventional measures of empirical observations must necessarily follow from the institutionalisation of hegemonic politico-normative projects tied to an observable empirical shift – or a similar normative change within the scientific community (Honneth, 1991:212-13). The first assumption prevalent since the 1990s in CPE has suggested that allocation in labour markets is exogenous to democratic state intervention – an assumption prevalent in Rothstein (1998), Esping-Andersen's (2003b) later work, and Hemerijck (2013). The second is that 'globalisation' and capital mobility are factual empirical phenomena which must be adapted to, rather than politically shaped – an assumption prevalent in Hemerijck (2013).

After the empirical institutionalisation of such normative shifts, following extensive observation, certain descriptions of either behaviour or institutional design become regularised and assumed in scientific literature so that the positive direction of social scientific inquiry may proceed. By making a causal argument about ‘policy learning’ guiding the transformation of European welfare states, Hemerijck follows the scholarly convention adhered to also by Esping-Andersen (2003a) himself. First, there was ignorance – working class mobilisation pushing for de-commodification – then came enlightenment: the capability approach and active social policy. Thus, not only do ‘impact factors’ like globalisation become regularised as exogenous independent variables in the discipline of CPE, welfare states are reconceptualised as means to enhance the capabilities of methodological individualist agents.

Therefore, if institutions and their study are themselves rooted in the institutionalisation of norms, then the validity of empirically-oriented theories in political economy are assessed by how closely their assumptions and outcomes correspond to what is ultimately a contingent and normatively-structured political order. SIP practitioners validate the factual nature of their causal analyses through assessing data generated by agencies governed by political actors with normative agendas defining which observations of reality are important to measure. The SIP thus transforms a theory of justice presented as a universal ideal established by reason, into a series of instruments assessed ‘comparatively’ to generate employment. The regularisation of these measures prevents the generation of empirical information which defies scholarly convention until empirical reality itself impedes sufficiently to break down the hegemonic agenda. This is precisely how “the scholar and his science are incorporated into the apparatus of society; his achievements are a factor in the conservation and continuous renewal of the existing state of affairs” (Horkheimer, 1972:196).

The fallacious appeal to the authority of the status quo is called *reification*. The shift of focus from individual freedom to the efficient implementation of capabilities which enhance

wage employment can be termed the shift from *normative* to *instrumental reason*. These terms emerge from the tradition of Critical Theory (Horkheimer, 1937) which argues that the epistemological fallacies of positivist social science are directly related to the institutions of capitalism and their focus on instrumental knowledge and causal explanation. In other words, like the historical institutionalists, critical theorists see capitalism as a specific historical phenomenon, and not a fact of nature. Unlike the historical institutionalists, they see the rendering of normative thought into causal argument as an epistemological problem of positivist conceptions of scientific knowledge and reason, rather than an ontological shortcoming of methodological individualism. Therefore, the first step in defining a theory of social justice for empirical application is to critically identify common assumptions specific to contemporary capitalist social relations ‘reified’ as objective and exogenous facts, followed by how the content of these relationships are justified in practice – particularly through distinguishing between justifications premised on supposed universal normative truths, or those justified through instrumental use value for an assumed end. Fortunately, this scholarly enterprise has been a central focus of the Frankfurt School of Philosophy since the 1930s.

Chapter 3: Social Justice between System and Lifeworld

“When the ordinary man is asked to explain what is meant by the term reason, his reaction is almost always one of hesitation and embarrassment. It would be a mistake to interpret this as indicating wisdom too deep, or thought too abstruse to be put into words. What it actually betrays is the feeling that there is nothing to inquire into, that the concept of reason is self-explanatory, that the question itself is superfluous.” – Max Horkheimer, Eclipse of Reason, 1947³

From everyday discourse to Rawls’s reflective equilibrium, the concept of reason is often cited as a justification for numerous propositions, yet few define precisely how ‘reason’ substantiates the truthfulness of such suppositions. This oversight is especially prevalent in positivist social research, in which several assumptions about exogenous facts and human behaviour facilitate fleetingly accurate causal arguments, like the VoC approach, which emerge and fade with such frequency in CPE that considering their conclusions ‘truth’ appears as an exercise in ideological advocacy. Critical Theory thus originates in a critical assessment of theory-building in positivist social science, critiquing the limited conception of reason employed to justify presuppositions about human behaviour and institutional design.

The following chapter is a selective interpretation of Critical Theory for building a theory of social justice. By first identifying forms of reason in truth statements, followed by constructing an epistemic framework for interpreting reality, I endeavour to not only construct a theory of social justice operationalised in the following chapter for labour market institutions, but also provide a classificatory language for making empirical observations of the Hartz Regime. In effect, I re-specify the very language we use to describe labour market institutions both empirically and in terms of social justice, and in so doing, offer a *critical* theory of social justice built on a relational ontology distinct from both holistic and individualistic theories explored in the previous chapter.

³ (Horkheimer, 1947: 3)

More specifically, I first identify the basic agenda of critical theory: immanent critique of reified norms with emancipatory intent. For example, by highlighting how the shift from expanding individual choices through capability enhancement to the supply-side labour market policy of the SIP in the previous chapter, I identify the reification of market allocation of labour emerging from a firm-centred ontology. Immanent critique elucidates how this reification effectively subordinates the capability to plan and execute a freely-chosen life plan to the vicissitudes of employer demands. The second step draws on the work of Jürgen Habermas, constructing an epistemic framework based on the normative reasoning of lifeworld – which generates moral orientations towards social participation – and the instrumental rationality of systems like the BA or the Hartz Regime generally, which functionally differentiate individual roles to generate efficient means to achieve collective ends. The study of lifeworlds is linked to hermeneutic interpretation in qualitative research, whilst quantitative comparative analysis inferring causal relationships between variables is integral to the study of systems. The epistemic framework constructed integrates both epistemological positions through the *relational ontology* integral to Habermas's focus on communicative action. This epistemic framework is subsequently utilised as a foundational language for constructing the theory of social justice used in this thesis. The theory is summarised in two principles: 1) that normative constraints emerging from the lifeworld must be equally applied regardless of position in the system-generated social structure; and 2) that a plurality of action orientations towards social integration are granted parity of participation by the labour allocation system of the Hartz Regime. This basic framework is then operationalised for comparative labour market research in the following chapter.

I. Reification and the Critique of Reason: An Agenda for Critical Inquiry

By ignoring the normative content of scholarly convention and equating empirical observations with fact, positivist social science *reifies* historically contingent abstractions about the nature of social reality (Honneth, 2008). Although the concept of reification was initially developed prior to Horkheimer's (1972) explication of Critical Theory, particularly in a somewhat different form by Georg Lukács (1971), it has been integral in some manner since the 1930s and thus informs the basic initial approach to mainstream research (Honneth, 2008). As demonstrated in the conclusion of the previous chapter, reification is a fatal problem for operationalising theories of justice, as relying on evidence from positivist analyses requires accepting their underlying assumptions which have little to do with social justice. However, the concept of reification pushed too far suffers from the possibility that all truth statements are merely reflections of reified norms, thus precipitating a nihilistic relativism. Nevertheless, the focus of 'first generation' Frankfurt School scholars provides the basic programme and intent of Critical Theory.

1.A – Reification and Reason

When examining how norms become reified, Critical Theorists began to examine the relationship between reification and forms of reason. In Horkheimer's (1947) essay *Eclipse of Reason*, he argues that the development of scientific reason during the Enlightenment aimed at emancipating humankind from superstitious explanations of natural phenomena and establishing its sovereignty over the world through knowledge. Classifying *objective reason* as the normative end of universal emancipation co-constitutive with expanding knowledge of the truth, *subjective reason* as the capacity for an individual or collective subject to identify the proper means to achieve a consciously desirable end, and *instrumental reason* as the efficient

organisation of means towards any given end, Horkheimer argues that modern reason has seen a shift from the former to the latter. By considering all universal normative truth as subjective, along with art and lived experience, instrumental reasoning and its attendant focus on efficiency became an end in itself. “This results in a subjectivization of faith and knowledge; art and morality are split off from claims to propositional truth, whereas science retains a practical relation only to purposive-rational action” (Habermas, 1984:350). In the field of political economy, rational action thus became equated with behaviour fixated on maximising the means of individual self-preservation in the capitalist mode of production: the accumulation of capital.

This methodological individualist ontology serves to reify a conception of human nature suitable for capitalist expansion,⁴ yet ultimately results in another form of domination. Equating rational action with individual self-preservation accelerates first the domination of nature through reifying capitalist measures of value, then the domination of society through limiting what is considered reasonable in each individual consciousness. Social institutions require the increased measurement and control of this standardised individual to efficiently coordinate ‘rational’ collective action, ultimately resulting in neither enlightenment nor emancipation. Reasoning thus turns from an objective thought process in search of truth, into a mode of thinking subservient to the prevailing capitalist ideology.

This critique was extended into the cultural sphere with the renowned ‘Culture Industry’ chapter of *Dialectic of Enlightenment* (Horkheimer and Adorno, 1947) and later with Herbert Marcuse’s (1964) book: *The One Dimensional Man*. Observing the increased material prosperity in post-War America, these critiques illuminated the shallow automaton underlying the equation of moral virtue with market success and consumer abundance. Although industrial

⁴ For an interesting discussion of how human nature as self-interest became a capitalist axiom in the early Modern period, see (Hirschman, 1977).

modernity offered an ever-increasing range of continuously available choices in products and experiences, as well as the illusion of variety between them, the “people are led to find in the productive apparatus the effective agent of thought and action to which their personal thought and action can and must be surrendered. And in this transfer, the apparatus also assumes the role of a moral agent” (Marcuse, 1964:79). Through reducing individual agency to that of a producer and consumer, the emancipatory drive characteristic of Enlightenment ideals is declared eternally resolved by capitalism and consumer society. ‘Reasonable’ social forms need only compare themselves empirically through readily available measurements of performance such as GDP growth rates, (un)employment rates, and investor confidence indices – all of which are standards of normative valuation reified as if they represent objective facts. Ultimately, in reifying capitalist social norms and redefining instrumental rationality as ‘reason,’ the pluralism and autonomy of individual thought was removed from the intellectual purpose of the Enlightenment: emancipating the individual as a moral agent.

Our discussion of the capability approach’s transformation into the SIP exemplifies the process. Although Nussbaum (2000) offered more philosophically nuanced definitions of capabilities justified through reflective equilibrium, the subsequent application of the capability approach in CPE demonstrates the shift from objective to instrumental reasoning. Hemerijck’s (2013) numerous variables, isolated as empirical ‘impact factors’ exogenous to welfare policy, leads to an increasingly narrow conception of what is possible within the status-quo of European welfare capitalism. First reifying numerous elements of global capitalism, Hemerijck subsequently succumbs to a rigorously instrumental rationality in connecting forms of welfare provision with measures of ‘performance’. This narrows the emancipatory elements of institutional design to social investment directed towards making the labour supply more attractive for firms – effectively equating individual freedom with possessing marketable skills.

I.B – Agenda of Critical Theory: Immanent Critique with Emancipatory Intent

In contrast to the reification fallacy and instrumental reasoning of positivist social science, Critical Theory explicitly acknowledges its intention of illuminating and overcoming the spectre of domination intrinsic to capitalism (Horkheimer, 1937). The Critical Theorist is therefore conscious of political agency in defining concepts – distinguishing themselves from ‘traditional theorists’, who often operate as instruments of the status quo, not only through accepting observable institutional configurations as fact, but also accepting socially or politically given assumptions about the functional purpose of institutions. Whilst the SIP attempted to bring the capability approach into CPE by subordinating the guiding principles of the former under the supposed factual realities of the latter, the Critical Theorist attempts the opposite: highlighting how the arrangement of variables in causal arguments are reflections of causal relations within historically-contingent aspects of capitalism, rather than universal truths, subsequently re-orienting the analysis by placing emancipatory norms above reified realities

In practice, this means that the Critical Theorist illuminates reified social norms such as equating wage labour with individual freedom, followed by an *immanent critique* – ie. description from the perspective of the participants. As a guiding principle, the Critical Theorist is directed towards “the idea of self-determination for the human race, that is the idea of a state of affairs in which man’s actions no longer flow from a mechanism, but from his own decision” (Horkheimer, 1937:229). This translates into identifying dominating social mechanisms like an activating welfare state ‘incentivising’ wage labour, pointing out the fallacy of considering such a mechanism as facilitating individual freedom through examining the lived experience of those subject to it, followed by demonstrating how the mechanism fails to facilitate emancipation. The basic approach to Critical Theory is thus *immanent critique of reified norms with emancipatory intent*. *Immanent critique* describes reified abstractions from the perspective

of those subjected and subordinated to such conceptual simplifications. Emancipatory intent is achieved through re-conceptualising these reified understandings of social reality in terms of their contradictions, lived experience, and potential for emancipatory reform (Azmanova, 2012a; Burawoy, 2015; Lessenich, 2015).

Despite this lofty intent, by adhering to the Marxist focus on the industrial proletariat as the emancipatory subject of a post-capitalist society, first generation Frankfurt School scholars immediately faced significant problems with the empirical emergence and proletarian support of corporatism, fascism, and totalitarianism. This problematic understanding of social classes was intensified by the fragmentation of the proletariat itself through post-industrialisation (Bell, 1973). After the rise in prosperity among the traditional working class of the Keynesian welfare state during the ‘Golden Age’ of welfare capitalism, contrasting the far less emancipated Soviet Union (Przeworski, 1985), Horkheimer and Adorno themselves became almost exclusively focused on how instrumental reason pervaded every aspect of post-war capitalist society – thus the founders of Critical Theory gained popular notoriety as aloof pessimists (Habermas, 1987b).

II. Communicative Action between System and Lifeworld

Early proposals for genuine emancipation in capitalist society, for example from Erich Fromm (1941), as well as Marcuse (1955), argued against stifling social conformity and sexual repression. These emancipatory programs tended towards Freudian psychoanalytic understandings of human nature and the importance of aesthetic sensibilities for an emancipatory outlook. Whilst these emancipatory proposals were subsequently reflected in some focuses of the New Left and 68 Generation, it has been convincingly argued to have ironically facilitated the ‘new spirit of capitalism’ in neoliberal post-industrialism (Boltanski

and Chiapello, 2005). Nevertheless, the guiding principle outlined above remains essential for practitioners of Critical Theory and will remain so for this thesis. However, following the so-called “linguistic turn” (Azmanova, 2012b) in critical philosophy, the second generation of Critical Theory emerged, instigated by the transformative influence of Jürgen Habermas – who sought to reconcile critique of capitalism with the Enlightenment project of emancipation through reason.

II A. Communicative Action in Lifeworld and System

Habermas transformed Critical Theory with the concept of communicative action (Habermas, 1984; 1987a; 1989). He critiqued early Critical Theory’s inability to provide a satisfying emancipatory outlet in its adherence to a rather dogmatic understanding of historical materialism (Honneth, 1991). Through reconstructing the evolutionary history of humankind with an eye to the social relations of labour – the relationship at the heart of historical materialism – he comes to admit that “*labor and language are older than man and society*” (Habermas, 1989:119). Societies thus cannot only be defined by the organisation of social labour in a mode of production, but also in the activity of social subjects interpreting their world. Before the coordinated and purposive action of social labour is realised, communicative action is required to negotiate “definitions of the situation which admit consensus” (Habermas, 1989:143). At its most basic level therefore, the act of communication requires adhering to “the reciprocity relation that underlies all interaction” (Habermas, 1989:133).

Nevertheless, the capacity to reach a consensus of mutual understanding often relies on a certain set of pre-understandings shared by subjects within a linguistically-structured *lifeworld*. Our capacity for communicative action is conditioned by the language and social environment we are socialised into. Therefore, “the evolutionary learning process of societies

is dependent on the competencies of the individuals that belong to them. The latter in turn acquire their competences not as isolated monads but by growing into the symbolic structures of their lifeworlds” (Habermas, 1989:131-2). In describing these linguistically-structured lifeworlds, Habermas argues that the individual capacity for communicative action develops in three stylised phases of socialisation until maturing with argumentative speech, where speech acts are oriented towards establishing mutual understanding and a consensus on empirical facts or the normative principles which ought to guide behaviour (Habermas, 1989:132). Argumentation thus contains the origin of human rationality – which manifests itself both normatively and instrumentally through the force of the better argument (Habermas, 1996; Allen, 2012).

Habermas argues that *normative rationality* is a result of *practical reason* which guides the process of human physical, cultural, and social reproduction (Habermas, 1989:176). Through first establishing shared definitions of external reality, the shared bases of cultural norms emerge, allowing human societies to maintain the meaningfulness, solidarity, and individual responsibility of their members. Without the guidance of this linguistically-based unifying order, de-legitimation, anomie, and irresponsibility result. Thus, at a very pragmatic level, normatively-structured lifeworlds are a prerequisite for any kind of rational human coordination and societal reproduction. Language separates humans from other species, its development over time created human societies which maintain their adaptive fitness through morally-binding social norms. Diverging from historical materialism, Habermas thus argues social norms increasingly transcend basic material necessity and instead lead to socio-cultural variation in diverse lifeworlds. In this thesis, the logics and presuppositions distinct to the lifeworld will be referred to as ‘*normative reasoning*’. This notably simplifies Habermas’s

forms of communicative action to maintain the focus on parsimony.⁵ The lifeworld thus forms the “structures that mark the moral consciousness of the individual and the legal and moral system of society” (Habermas, 1989:133). In modern society, the *law* links together the moral orientation of the individual with the normative constraints prevalent in the lifeworld – with the latter presumably universally applicable for each individual. To succinctly elucidate, *normative reasoning generates definitions and meanings forming the basis of law, social solidarity, moral motivation, and the moral duties attendant to notions of individual responsibility.*

Because the ‘force of the better argument’ equates to greater rationality, Habermas locates the development of reason as a *historical* process requiring intersubjective communication – ultimately arguing that *reason emerges from the structure of language itself*. It is thus prevalent and understandable for anyone exercising their human capacity for language. Reason is not the privileged domain of experts reaching reflective equilibrium, nor scientists modelling human behaviour above communicated rationales for behaviour, but integral to communication and thus pervasive and identifiable in everyday discourse. We can thus employ communicative rationality to define the purpose of existence as a social group, as well as the universally-binding morality which enables and constrains individuals’ behaviour. Thus, *universal* agreement is achieved through communicative action oriented to defining the situation and creating shared norms of social practice – definitions and norms which progress through history towards Enlightenment.

Assuming we have defined reality and the ends of rational activity in the lifeworld, instrumental reasoning facilitates forming a *system* of means towards achieving those ends –

⁵ This binary simplification of Habermas’s (1989:155-156) reconstruction of Weber’s theory action and rationality contains fewer delineations – particularly missing dramaturgical communicative action and aesthetic rationality. Nevertheless, my definition adheres to the basic principles of Habermas’s reconstruction of historical materialism which maintains the distinction between instrumental action and normative understanding.

also through communicative action. Instrumental rationality reduces empirical observations into standardised measures and analyses them in terms of cause and effect, leading to a systematic understanding of the natural world and its effective transformation through social labour. Having evolved from very simple organisations built around kinship and clan to modern class societies (Habermas, 1989:134-8), the basic descriptive principle of systems remains constant: *functional differentiation*. Functional differentiation equals the division of labour in the production of material and non-material goods – a basic principle of efficient organisation premised on diverse specialised knowledges and technical skills (Smith, 1976). However, functional differentiation also points beyond production systems to more general divisions of labour, those which allocate specialised roles in cultural, social, and physical reproduction – such as religious authority, the role of the state (Offe, 1984:51-61), and how families are organised (Fraser, 1985:107). These different spheres are termed *subsystems* which function according to *self-referential logics* internal to their particular ends. For instance, the logic of welfare states agencies like the BA is explicitly tasked with generating employment by the most effective means. Regardless of their content, subsystems require *functionally-necessary roles* (ie. *Work*) that specialised individuals perform, also based on a further division of labour at the individual level. We thus have highly specialised AVs within the BA – each with specialised technical knowledge about social work for *Case Managers*, or AVs tasked specifically with activating unemployed individuals older than 50. Ideally, systems turn a society of diverse individuals inhabiting a lifeworld and communicating with normative reason, into specialised instruments of collective ends, democratically defined in the public sphere, organised into efficient subsystems like the BA tasked with specific social goals.

Although highly disparate in their functions, subsystems nevertheless rely on two universalising elements to maintain effective coordination between them – one emerging from lifeworld norms, and one epitomising instrumental reason in communicative practice. First,

organising principles of society coordinate individuals by providing easily identifiable forms of *social integration* above the specific instrumental rationality and technical knowledge of a given subsystem. Therefore, “organisational principles of society can be characterised, in a first approximation, through the institutional core that determines the dominant form of social integration” (Habermas, 1989:131). As will be detailed later, price-mediated exchange in markets provides one organising principle, as does reciprocal relations between hierarchical social statuses, or public forums for articulating the force of the better argument. The BA is thus a hierarchical organisation of the state tasked with ‘social integration’ defined as activating individuals into wage labour. Secondly, the observation, measurement, and control of systems, as well as the allocation of resources between subsystems, is facilitated by what Habermas calls *steering media* such as money, legal hierarchies, and voting tallies (Habermas, 1975). Money allows for establishing equivalency of value between different forms of inputs and outputs in economic production, thus facilitating exchange, whilst hierarchy distributes roles and responsibilities among reciprocally-interacting levels of a system. Steering media can thus be understood as formalised universals which *substitute* for communicative action by reducing complexity – negotiating *price* is more efficient than negotiating *barter*. Although substitutes like price are often reified as objectively real things in themselves, they are not natural phenomena, but socially-constructed tools for communicating social value.

The *logic of social differentiation* links organising principles with steering media to establish the base *social structure* of the system. For instance, the constellation of norms such as private property, ‘free’ labour contracts, and consumerism characteristic of markets in general, when established as an organising principle, creates a system differentiating between buyers and sellers, owners and workers, money minters (ie. banks) and borrowers, with access to and control of steering media determining position in the social structure. Social structure is thus akin to the basic system of social relations in Marx’s (1977) sense.

However, access to steering media presents both socio-normative and system problems, with the *source* of control over steering media a major intellectual debate. Some argue that social differentiation emerges out of the logic of functional differentiation, such as Brunkhorst's (2014:53) reading of Marx, thus employers tasked with organising labour for production become a distinct social strata because of their functional role, whilst the organising principle of a market could also inherently produces social differentiation (Offe, 1985:Ch.1). In either case, as will be discussed in the section on social justice below, social differentiation is ultimately derivative of instrumentally rational specialisation, yet tied distinctly to normative expectations in the lifeworld, thus forming an important conceptual border-region between system and lifeworld key for inquiring into the social justice of labour market institutions.

II.B – System Colonisation of the Lifeworld: Modernity and Action Orientations

Because it evolves over time becoming increasingly complex, the relationship between lifeworld and system is historically dynamic, with normative learning and system adaptation occurring on a progressive trajectory, with threats of decay and disorganisation immanently present (Habermas, 1989:122). Reconceptualising Horkheimer and Adorno's (1947) *Dialectic of Enlightenment*, Habermas argues that a 'colonisation' process of system into lifeworld is increasingly evident in modernity. This process is characterised by the increasing prevalence of instrumental rationality in communicative action, undermining the scope of normative reasoning in making collective decisions. Colonisation occurs through the nature of system organisation itself – initially premised on functional differentiation into sub-systems guided by steering media. Increased complexity facilitates social adaptation to environmental phenomena, yet creates increasing system pathologies which are solved by further specialised subsystems, leading to ever greater complexity. This leads to two problems: 1) *destructive*

pathologies between self-referential subsystems; and 2) the *ossification* of the system in general due to complex interdependencies undermining the potential for reform.

In terms of destructive pathologies, inherently *functional logics* come to supersede norms guiding shared meanings and moral responsibility. This is illustrated for instance by the short-term speculative logic of investment banks undermining long-term planning of manufacturing although both may be directed towards the organising principle of economic growth through market exchange. This form of colonisation is also reflected on the individual level in which the volatility of investment and consumer trends discourages specialised skill formation, thus leading to high unemployment and shortages of skilled workers simultaneously. Colonisation occurs when both the content of practical reason in personal reflection, as well as rational communicative action in the public sphere, is rendered one-dimensional by reifying the particular instrumental logic of a key subsystem, thus undermining other systems and eroding the shared norms binding participation in the system as a whole. This degeneration into the conflicting interests between self-referencing subsystems is a common characteristic of capitalism, in which any given subsystem, such as the financial sector, views all culture, history, nature, and the content of individual socialisation as directed towards their specific market imperatives. Universal moral duty and individual responsibility are purged from communicative action under such circumstances, with scholars coming to reify the self-referencing logic of the financial sector as exogenous fact (Hemerijck, 2013) rather than recognising it as a pathological subsystem of society.

In terms of ossification, Offe (1996) highlights how maintaining a complex system designed for “the emancipation of reason and subjectivity” (Offe, 1996:5) eventually supersedes the capacity for meaningful social change. Understanding capitalist modernity as the “expansion of options, specialisation, and functional differentiation” (Offe, 1996:9), he suggests that eliminating pre-modern normative authority, favouring instead an individualistic

lifeworld of ever-expanding choices in specialised roles, nevertheless requires channelling individuals into specific functional roles to maintain coordination of the emancipatory system itself. In other words, the very foundation of freedom in Rawls's conception of happiness, specialisation towards excellence as the goal of rational life plans, requires an ever-expanding system of specialisation which turns against itself, dragooning individuals in un-chosen roles simply to maintain the operation of the system. Individuals as moral agents are redefined according to their *human capital profile* – with the *value* of 'human capital' measured by capacity to serve a specific function in the system.⁶ For example, whether individuals are actually fulfilling their freely chosen life plans is ignored among SIP practitioners, so long as they are working to keep the system functioning.

In broader terms, changes in the lifeworld, such as the acceleration of social life (Rosa, 2013), the technological imposition on the character of labour (Moore and Robinson, 2015), and the spectre of global environmental catastrophe (Scranton, 2015) are never effectively dealt with, because changing facts and norms undermine established presuppositions and patterns of pre-existing instrumental action. As Offe (1996:12) highlights:

“On the one hand, nearly all factors of social, economic, and political life are contingent, elective, and gripped by change, while on the other hand the institutional and structural premises over which that contingency runs are simultaneously removed from the horizon of political, indeed intellectual choice.”

⁶ Offe and Habermas do not use this term. However, as will be elaborated later, I have a much broader definition of human capital drawn from Bourdieu's (1983) work on the subject – which is sociological and more encompassing than the traditional economic definition given by Gary Becker (1975). However, I used the term due to its widespread use in contemporary discourse – as well as the implicit focus of capability enhancement in the SIP.

Despite factual and normative change in the lifeworld, the ‘societal choice’ of fundamentally reforming a given system becomes untenable due to its potential for dramatic destabilisation, even if such a reform seems practically, functionally, or normatively necessary. Thus, “there emerges a seemingly paradoxical entanglement with the status quo and an inflexibility of the overall society which no longer has anything in common with the fundamental motif of modernity, namely the ability to dispose over options and choose” (Offe, 1996:16).

Despite destructive pathologies and ossification, this increasingly complex system still maintains “a functional ‘need’ for its members to be morally oriented” (Offe, 1996:44) towards consciously subjecting themselves to the prevailing requirements of the system. In other words, *logics of participation* are increasingly suffused with expectations of ‘moral self-binding’ rather than allocating individual choice or the instrumental rationality of material reward. Paradoxically, the system thus requires individuals to have a subjective *moral orientation* which considers participation in the socio-economic system as a moral duty of individual responsibility – regardless of the emancipatory potential a given role has according to the individual’s own subjective moral orientation and life plan. As Offe (1996:44-5) clarifies:

“these orientations toward an ethics of responsibility have the character of norms because, however great their importance for the continued viability of complex social systems from a functionalist point of view, they are nonetheless not *motivated* by this functionality but spring forth from the actors’ uncoerced and indeed uncoerceable moral self-binding. Motive and function are thus separated...”

This observation provides an important definition for this thesis: *action orientation*. An action orientation is defined as *a moral orientation which results in active and observable participation (ie. work) in a social system*. More generally, a moral orientation is what connects

individuals with the cultural norms of their society, whilst an action orientation is what drives *participation in the system* under the presumption that this participation aligns with a wider normative purpose emerging from a shared lifeworld. An *action orientation* is thus defined as a conceptual synthesis of moral orientations compelling individual ‘self-binding’ to system participation, and subsequent observable actions (such as working or applying for jobs) which by implication reflects those moral orientations. Although this definition does not provide content to action orientations in capitalist societies, at this point, the classificatory language which will be utilised to describe the theory of social justice for labour market institutions, as well as identify empirical observations during field research, has been sufficiently developed and must be specified as a framework for critical social research.

II.C – System and Lifeworld as Critical Social Research

To clarify system and lifeworld in terms of critical social research, it is helpful to draw on the philosophy of science discussion of *Verstehen* (understanding) and *Erklären* (explanation) – taken from Weber (Habermas, 1988). The former is related to the hermeneutic logic for the *interpretation of meaning* from cultural symbols communicated textually or with speech acts. The latter is related to the traditional conceptualisation of science which seeks the *explanation of observed relationships* between independent and dependent variables. Considering all communication is premised on definitions representing the socially-conditioned mind’s experience of the lifeworld, their ordering cannot be arbitrary, but must have logical relationships between definitions and enacted social norms, thus forming the basis of *Verstehen*. At the same time, instrumental logics of cause and effect in social systems cannot be assumed as objective reality without recognising the historically-specific normative content

not only of their assumed purpose, but also of the very measures employed to facilitate standardised comparison.

Although *Erklären* and *Verstehen* help to delineate between modes of inquiry, separating them by disciplinary boundaries exemplifies overextended functional differentiation characteristic of system colonisation. As Habermas (1987b:115) argues:

“when science, morality, and art are each specialized in *one* validity claim, when each follows its *own* respective logic and is cleansed of all cosmological, theological and cultic dross – only then can the suspicion arise that the autonomy of validity claimed by a theory (whether empirical or normative) is an illusion because secret interests and power claims have crept into its pores.”

In contrast to a situation in which equal scholarly pursuits communicate to reach mutual understanding and consensus oriented towards discovering truth, disciplinary fragmentation exerts a form of closure in which epistemological variety is functionally differentiated into an implicit hierarchy of validity among differing modes of inquiry. In practice, social scientific inquiry becomes more valid the functionally useful its role in the capitalist system – transforming the understanding of society and science as one dependent on the requirements of an ideology. Demonstrated in the previous chapter, as modes of argumentation become more focused on empirical causality, the more they reify empirical measures and ontological assumptions of behaviour restricted to reflecting the prevailing capitalist ideology.

Complementing the basic approach of Critical Theory therefore, the conceptual framework of system and lifeworld offers a considerable refinement and an important compromise between *Erklären* and *Verstehen*. On the one hand, it avoids relentless critique of any reified concept characteristic of postmodernism and deconstructivism (Habermas, 1987b), as well as the reification problem in positivist social science. Causal relationships between

quantified representations of reality genuinely do facilitate efficiency analyses of given systems, such as ALMP expenditure and unemployment rate, if we recognise the normative origin of those representations – such as reducing taxes and increasing employment is better than taxing the rich to fund basic income regardless of employment status. Habermas's approach is thus able to reconcile the instrumental rationality of economic production and positivist science (system and explanation), with the reproduction and evolution of human societies in their natural environment (lifeworld and understanding). Combined with the critique of reification, by utilising the system-lifeworld distinction as an epistemological framework, a social researcher can resolve two competing approaches to social knowledge, transforming them into a holistic framework critically investigating continuously evolving human social life.

For social research in general, this perspective thus subsumes *both* epistemological paradigms of empirical research (interpretivism and positivism) into an *epistemic framework* of communicative action between system and lifeworld. The basic epistemic framework therefore considers conventional debates about the validity of interpretivism or positivism in social research (Yanow, 2006) largely resolved. These paradigms are distinguishable in both scholarly and everyday discourse by identifying instrumental versus normative reason in communicative action. These forms of reason are in turn distinguishable by a logic focusing on cause and effect and oriented towards efficiency, and one focusing on interpreting motivation and meaning understood by actors carrying out social activity. As a programme for generating theoretical and empirical knowledge, combining the critique of reification with delineating system and lifeworld thus suggests two evaluative criteria for every theoretical assertion or empirical observation:

1. ***Delineating universal facts from reified norms.*** This is accomplished primarily through identifying cross-case or historical counterexamples demonstrating the

reversibility of institutionalised norms or paradigmatic shifts in positivist empirical research.

2. *Delineating between instrumental reasoning and normative reasoning.* This occurs through focusing on communicative action oriented towards means to achieve assumed goals and action oriented towards defining meaningful ends, codes of social solidarity, and motivating morals of individual responsibility.

Specifically regarding the discipline of CPE, the system and lifeworld distinction offers an alternative to the astonishingly vague term ‘institution’. The multiple definitions of institutions in CPE vacillate between formal legal orders, strategic information relays, or normative social practices – often depending on ontological assumptions of the guiding theory. As an alternative, differentiating between system and lifeworld as two faces of an ‘institution’ is more precise. In other words, a system is a formalised mechanism of means coordinating individuals for particular ends, whilst the lifeworld is the constellation of definitions of reality and normative reasons patterning behaviour. The term ‘system’ thus suggests formalised logics of social and functional differentiation such as labour allocation regimes and legal hierarchies, the determined strategic and instrumental action following from these (Habermas, 1989:156), as well as the specific empirical subsystems which perform a social role such as the BA. The term ‘lifeworld’ suggests common understandings of reality such as a local history, morally-binding practices understood as ‘what we do around here’, and the moral motivation to actively adhere to such practices.

The above articulation provides the critical epistemology useful for identifying both theoretical and empirical observations in terms of their forms of communicative action. However, considering the descriptive trajectory of system colonisation in modern society, an epistemic framework must be succinctly elaborated to demonstrate how the descriptive terminology of system and lifeworld in modern society relates to itself and is classified in

subsequent research. In other words, the following provides an interpretive framework of terminology applicable to theoretical and empirical research. The framework utilised here is limited to five levels:

1) *Communicative Action* in the public sphere, whether rational and universally accessible, or irrationally distorted by powerful interests, defines and delineates the *facts* of the material environment and *norms* of the linguistically-structured lifeworld.

2) Constrained by the agreed facts and cultural norms of their lifeworld, members of a community establish *organising principles of society* with an attendant *logic of social differentiation* producing a *social structure*. Wealth disparities, entrenched hierarchies, and legal distinctions are the basis of social differentiation, leading to a social structure that forms the most basic level of the *system*.

3) Considering the established social structure, *steering media* is employed based on a *logic of functional differentiation*, which channels specialised labour into various subsystems focusing on specific ends. Importantly, those specific ends establish *self-referencing* forms of validity, assessing performance in terms of efficiency maximising means to the specified end of a given subsystem.

4) Because those functionally differentiated subsystems require individuals to perform *functionally necessary roles* (ie. *work*), a group of material, moral, and coercive *logics of participation* match suitable *human capital profiles* with necessary social labour roles – or, simply, work.

5) Through *personal reflection*, individuals define the facts of their *individual socialisation*, generating a *moral orientation* towards social life. An *action orientation* is specifically what *connects moral orientation towards cultural norms, thus forming the basis of social integration and system participation*. To clarify, logics of participation connect human capital profiles with

specific roles, whilst an action orientation connects individuals with their lifeworld through general system participation, effectively fulfilling expectations of social integration.

Figure 2.1 Epistemic Framework of Modern Society

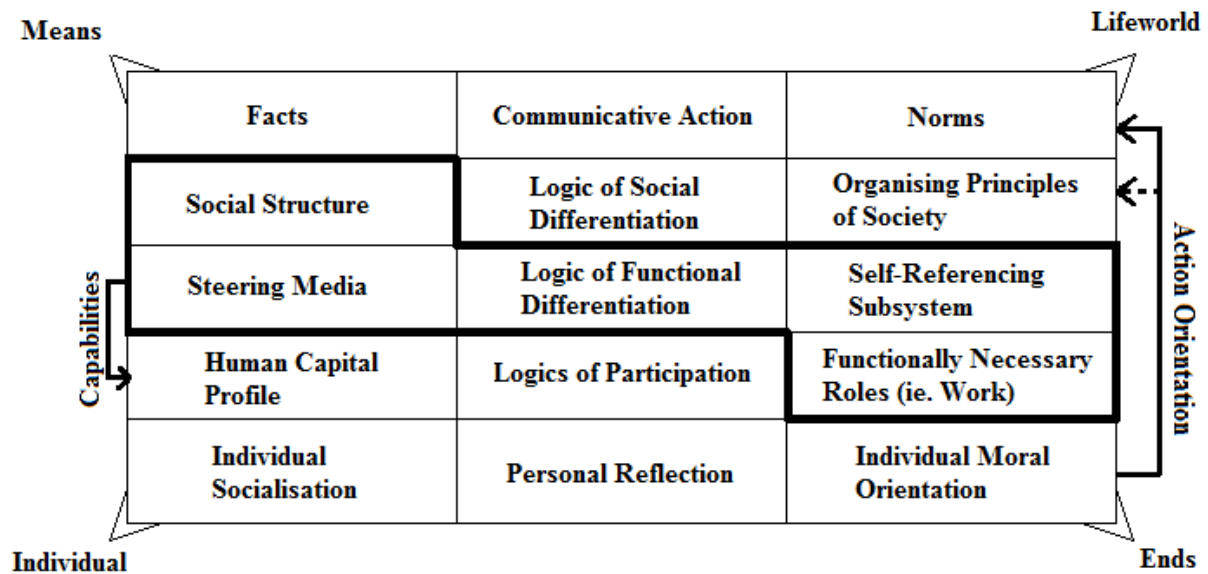


Figure 2.1 illustrates the critical epistemic framework whilst including individual *capabilities* to contrast the focus between capability enhancement and action orientations. The dotted arrow specifies how this framework is operationalised for contemporary labour markets in the following chapter. The figure represents an epistemic language for interpreting both theoretical approaches to labour market institutions, as well as empirical observations (ie. speech acts) of the German Hartz Regime. The thicker lines represent the social system governed by instrumental rationality, yet arranged according to the ‘organising principles of society’ – themselves presumably reflecting the shared social norms and factual requirements of existence. It is thus a system of action which metabolises material and non-material inputs towards essential and non-essential ends in service to human social reproduction and other

societal priorities. Because both human capital profiles and organising principles of society are embedded in the individual person and the cultural lifeworld respectively, they are not considered part of the system. They are embodied in the agent and structure, standing prior to the system of action. In aggregate, the above articulation and visualisation will be crucial for defining social justice, what that means for labour markets in comparative political economy, as well as how to signify interpretations of empirical observations as we study the German Hartz Regime.

III. Emancipatory Conception of Social Justice

The epistemic framework developed above will organise knowledge henceforward, leaving two remaining definitions in constructing a critical theory of social justice. First, we must define social justice from the perspective of moral agents in an instrumental system. Secondly, we must define emancipatory intent in the lifeworld. I begin with a brief recourse into Claus Offe's (1996) discussion of modernity and the state, before drawing from Hauke Brunkhorst (2014) to describe the context of modern law. This will lead to a negative principle of social justice from system to lifeworld: legally-sanctioned normative constraints must universally apply regardless of position in the social structure. Secondly, I will compare emancipatory projects of Critical Theorists from Habermas to Nancy Fraser, before establishing an emancipatory principle of social justice: parity of participation between action orientations towards social integration.

III.A – The State, Law, and Social Justice from System to Lifeworld

Offe (1996) suggests that, in the context of capitalist modernity's centrifugal tendencies towards globalisation, fractured sovereignty, and system complexity, the democratic state loses

its capacity to act as a collective moral agent reflecting society's normatively-structured lifeworld. Speech situations with recognisably democratic forms are increasingly distant in more complex social systems because instrumental rationality crowds out the capacity for norm-driven collective action mobilising individuals around a conception of moral duty, as well as the reflective capacity for individual moral agency. Consequently, all moral self-binding to the global production and consumption system is unloaded onto individual consciousness (Offe, 1996:34). In effect, individuals must somehow transform the instrumental rationality required for system continuation into a moral duty based in normative reasoning. This has the ironic effect of expecting 'moral-self binding' to externally defined instrumental rationality organised on a global scale, eliminating the link between the system organising individual action with the shared norms of a linguistically-structured lifeworld.

If we recall Habermas's axiom that the lifeworld marks "the moral consciousness of the individual and the legal and moral system of society" (Habermas, 1989:133), then we discover that modernity potentially severs the link between individual moral consciousness and the law – with the latter the key system binding all other systems to the moral expectations and social norms shared in the lifeworld. If following the law is no longer a moral duty, then it becomes a mere tool of incentivising or coercing behaviour in the given territory of a legal sovereign. The value of the rule of law is therefore no longer judged according to normative reasoning establishing universally applicable moral duties and human rights, but according to its instrumental value establishing efficient functionally-differentiated subsystems. Because we have already established that social differentiation accompanies organising principles like market exchange or social hierarchy, the separation of law from the lifeworld potentially undermines the *equal application of ostensibly universal social norms embodied in modern law*, rendering previously universal norms about rights and duties subordinate to instrumental use value. In Hauke Brunkhorst's (2014) critical study of law, asymmetric entitlements

emerging from the logic of functional differentiation in systems undermines not only the universal applicability of normative reasoning, but the nature of modern law altogether. In short, unless we are all held to the same set of norms embedded in legal standards of expected behaviour, regardless of our position in the system, then the key criteria of modern law, individual consent established through the universal applicability of legal content, is replaced by a stratified system of entitlement and coercion. Because this potential problem forms the principle of social justice from system to lifeworld detailed below, further investigating Brunkhorst's *Critical Theory of Legal Revolutions* is necessary.

Originating in the 'papal revolution' of the 11th century, Brunkhorst argues that modern law is legitimated by further equalising normative constraints and legal consequences despite intensified functional differentiation. This presents a tension between system and law, what he calls the conflict between the 'Kantian mindset' of autonomous citizens freely choosing to follow laws based on public consent, and the 'managerial mindset' of lawyers and other legal professionals preserving the efficient functioning of the system (Brunkhorst, 2014:46-51). According to Brunkhorst however, the Kantian mindset is undermined when system preservation and its attendant managerial mindset takes political precedence, leading to a crisis of legitimacy and ultimately revolution. Therefore, "the great and successful revolutions impose *normative constraints* [*author's emphasis*] upon the blind environmental adjustment and self-preservation of social systems" (Brunkhorst, 2014: 37).

Due to their embodiment of evolutionary learning processes punctuated by revolutionary shifts in society's normative order, legal systems, like the scholarly conventions of scientific research paradigms, stabilise around politically-imposed social norms which constrain individual behaviour – with modern law premised on the universal applicability of those constraints. In order to enforce such constraints, violation produces automatic *and universal* consequences explicated by the legal code. Moreover, even if segments of the law

are functionally differentiated – for instance between global capital and local labour law – they are subject to the same standard of normative reasoning in the lifeworld “within the *conceptually rationalised framework of a universal concept of justice [author’s emphasis]*” (Brunkhorst, 2014:32). In a democracy therefore, “all law that is public is opened not only *cognitively* to its *environment* but also *normatively* to the general and diffuse *public sphere*” (Brunkhorst, 2014:50). In other words, in line with Habermas’s understanding of communicative action requiring consenting to a mutually understood definition of the situation, modern law is rooted in normative rationality and intersubjective *equality*. Further linked with Habermas, Brunkhorst understands that equal application of the law is necessary for the continued legitimacy of a complex system, as the immanent capacity for dissent and refusal is not a technical problem for a managerial mindset to solve, but a problem of normative reason indicative of social injustice. In effect, social differentiation cannot produce different moral standards without being immediately apparent as *normatively irrational* by those subjected to them. This produces the first principle of social justice:

- ***Principle of Social Justice from Systems to Lifeworld:*** *Normative constraints must be universally applied, regardless of one’s position in the social structure.* Normative constraints are defined as the prohibition on certain behaviours, as well as the expectation of duty and obligation formalised in law. Universal application does not apply simply for those operating within a given legally defined subsystem however, as the managerial mindset may understand, but universally for all moral agents in the lifeworld, in line with the Kantian mindset.

Although not emancipatory, this negative principle generates an important sense of injustice applicable to the lived experience of individuals, thus assisting in immanent critique. Although the legal code may explicate constraints on behaviour for specific subsystems, these constraints

are normative in origin and thus must be universally understood and applied, lest the differentiated functional application of law undermines the universal norms driving consent and the moral duty to submit to the law itself. This is evident by Brunkhorst's observation that negativity and dissent are cornerstones of modern law, as being subjected to double moral standards are immediately apparent by anyone capable of normative reasoning.

III.B – An Emancipatory Conception of Social Justice in the Lifeworld

Habermas's strategy for emancipation is through linking it directly with how we judge the normative validity of self-referencing logics of subsystems. Somewhat similar to Sen's (2009) reliance on public reasoning, of utmost importance is an open public sphere where citizens may communicate as equals, adhering to agreed discourse ethics (Habermas, 1996), followed by the primacy of democratic decision-making procedures which implement the result of this communication. In effect, *deliberative democracy* and *legitimate institutions* are the wellsprings of maintaining modernity's emancipatory trajectory.

This foundational Habermasian approach emerged first when he examined the development of the "bourgeois public sphere", in which he postulated that the liberal legal and political order at the foundation of contemporary capitalist democracy grew in tandem with the principle of private persons oriented towards public deliberation (Habermas, 1991:Ch. 3). Aimed at emancipating the bourgeoisie from religious and aristocratic forms of domination, the public sphere allowed for private persons to engage in discussion with equals over affairs of common experience. With property ownership, market transactions, and domestic family life all severed from the state in the idealised bourgeois order, the emancipatory potential of "the public sphere of civil society stood or fell with the principle of universal access" (Habermas, 1991:85). In this scheme, the public sphere is the site where rational deliberation

validates political judgments, resulting in consensually binding decisions on relations between universal lifeworld norms and functionally-differentiated system imperatives.

If procedures of public deliberation are considered the basis of validity, in relation to the contemporary period, the emancipatory trajectory of modernity is maintained through two processes. First, functional differentiation should intensify – effectively reducing the need for authoritative oversight of mass action and replacing it with project-oriented global networks among equals. Following this ‘horizontal’ reading of contemporary globalisation, he argues for expanded access to rational deliberation *within* these increasingly specialised subsystems (Habermas, 2001:87). However, he locates a tension between ever-expanding options for system integration, brought about by the multiplying layers of functional differentiation characteristic of economic globalisation, and the magnifying threat of de-legitimisation, anomie, and social alienation resultant from such an unravelling of lifeworld cohesion. To avoid a regress into nationalistic communitarianism, Habermas argues that we must “develop new forms for the democratic self-steering of society” (Habermas, 2001:88). Utilising the European Union as an example, he argues for supranational coordination “that no longer draws its legitimizing force, indeed not even predominantly, from political participation and the expression of political will, but rather from the general accessibility of a deliberative process whose structure grounds an expectation of rationally acceptable results” (Habermas, 2001:110). Habermas envisions such an order through the institutionalised participation of suitable public sphere functionaries (such as NGOs) at the local and global levels to ensure the legitimacy of binding decisions on those who are affected by them. Through the “diversity of interpretations and inputs” (Habermas, 2001:110) a rational and universally legitimated consensus is possible. In effect, such a vision transforms free and equal access to a universal public sphere as a right of individuals inhabiting the lifeworld, into a universal procedure maximally applied to every ephemeral interaction between actors functioning in various

subsystems. However, it is unclear how this conceptual vision achieves Habermas' own requirements of extending the emancipatory trajectory of modernity for reasons of *access* and *communicative practice*.

In terms of access, the apparent technical knowledge required for suitable participation in democratic deliberation within specialised subsystems is itself an impediment to free and equal access. His proposition means that functionally differentiated technical knowledge, *which are a by-product of instrumental rationality*, likewise determine who has access to democratic deliberation over the complex and extra-institutional ramifications of a given subsystem change. This paradoxically suggests that the instrumental rationality of specialised self-referencing logics within given subsystems determines access to democratic deliberation – system colonisation of the lifeworld *par excellence*.

In terms of communicative practice, even if we imagine a situation where access is widened, thus 'enfranchising' a greater number of affected participants, those hierarchies of knowledge must be 'bracketed' for the just procedure of public deliberation in which everyone is allowed an 'equal' say. However, this conceptual move of conflating basic access to public deliberation with democratic legitimacy fails to appreciate the denigration and silencing of many common communicative practices. To recognise the absurdity of the proposition, one need only imagine the deference given to retired postal workers of a country verging on sovereign default, whom are not literate in complex financial transactions, publicly arguing they are contractually entitled to their pension just as much as the suited experts staffing a multinational investment fund publicly arguing their organisation is contractually entitled to its bond repayments. While both are normative judgments of who deserves what, the technical language behind financial markets renders the postal workers' status untenable for equal communicative practice, whilst giving those lucid in this language the veneer of objectivity. Under these circumstances, the specific communicative practices of technical insiders clothe

normative assumptions in the language of scientific truth – again falling into the trap of conflating instrumental and normative reason at the heart of Critical Theory.

These contradictions illuminate how questions about the *legitimacy* of rational procedures are actually questions about *justice*.⁷ Legitimate procedures do not equal a universally just order, but merely one which functions according to the minimum normative standards of those affected. This leads to the oft-repeated ‘it could be worse’ rationalisation of consent, a logic which legitimises a system without affirming it as socially just. Although perhaps legitimate, it certainly seems an injustice to limit access to democratic deliberation those with specialised knowledge and institutional expertise who function according a specific self-referencing logic, especially if the results of deliberation affect individuals functioning outside that subsystem. Doing so privileges specific individuals over others and undermines the first principle of social justice articulated earlier. In order to overcome the intensifying specificity of justice claims in complex systems therefore, we need a conception of justice which is suitable at *any level of analysis*. This requires more conceptual abstraction to examine form over content.

Before proceeding however, we must examine the issue of access and communicative practice not from rationalities emerging from the system and colonising the lifeworld, as has been the case thus far, but from how normative reasoning in the lifeworld can arrange systematic injustice as well. In so doing, it will come as little surprise that the above-mentioned shortcomings of *access* and *communicative practice* are likewise at the forefront of feminist criticism of Habermas, albeit from a perspective critical of the benign assumptions underlying

⁷The relation between justice and legitimacy is too complex to enter into discussion here and, in order to maintain the focus on parsimony, I sever the notion of legitimate domination from a concept of social justice. This seems intellectually acceptable following Brunkhorst’s (2014) theory of revolutions, which indicates that legitimacy can maintain itself despite the instrumental rationality of system preservation increasingly producing social injustice and dissent. Only when injustice has reached such a pitch that a genuine legitimacy crisis of the law occurs. Social injustice thus occurs prior to and effectively instigates a legitimacy crisis. For discussion of the concept of legitimacy, see Weber, 1968; Habermas, 1975; Manin, 1987; Rosanvallon, 2011.

Habermas' linguistic understanding of the lifeworld itself (Fraser, 1985; Browning and Kilmister, 2006: Ch.7).

Nancy Fraser's (1990) critique of Habermas illuminates the access oversight in his conception of the bourgeois public sphere. Because the public sphere is conceptualised as a time and place set aside from domestic and economic concerns, thus allowing rational deliberation over shared lifeworld norms and the appropriate systemic means to achieve them, it fails to account for the hierarchy and domination already present in normatively-structured lifeworlds (Fraser, 1985). Assuming domestic labour and economic production are separate from each other and public deliberation is a specific bourgeois norm which in practice erased women from public life. Consequently, before we can begin to consider the dynamics of public deliberation in the complex system of a global political economy, we must recognise the norms which often unjustly separate what is considered public speech, and what is considered private and beyond the purview of equal scrutiny in public. In effect, we must investigate who is considered an *equal* in the lifeworld.

In addition to illuminating a form of domination implicit in drawing a line between public and private, local, national, and foreign, Fraser also points out the negligible effect that disregarding status hierarchies has on actual *communicative practice*. Even with formally free and equal access to democratic procedures, specified rules of communication exclude certain alternative publics which communicate differently – regardless of the content uttered in a speech act. As Fraser (1990:61) highlights, “virtually from the beginning, counter publics contested the exclusionary norms of the bourgeois public, elaborating alternative styles of political behaviour and alternative norms of public speech. Bourgeois publics, in turn, excoriated these alternatives and deliberately sought to block broader participation.” This differs from the exclusionary communicative styles practiced by functionaries within a given

institutional subsystem, as it emerges not from specialised knowledge, but from normative practices of a given lifeworld.

Resembling the line drawn between whom has sufficient specialised knowledge to participate in decisions about a self-referencing subsystem, normative reasoning can institutionalise hierarchical “patterns of cultural value” in which some actors are *ascribed* inferior status without their consent (Fraser, 2003). These status categories are often cast as timeless facts of the lifeworld despite their cross-cultural variation clearly suggesting socially reproduced norms. Thus, the normative order of a given lifeworld produces ascribed social spheres in which the perceived *incapacity to communicate rationally* is considered a reason for barring access. Like the differing outcomes emerging from Rawls and Nussbaum’s employment of reflective equilibrium, we cannot assume people reason in the same manner. Indeed, different social spheres have different approaches to communication altogether, challenging the very notion that constituting a single lifeworld, with its constituent individual members having equal access to a shared public sphere, is even remotely possible (Marion-Young, 1993). In other words, *we cannot simply assume that a normatively-structured lifeworld produces just norms shared by all members of a community.*

Fraser (1990; 2003; 2009) thus argues that justice must be conceptualised as *parity of participation* – an egalitarian concept with a relational ontology at the individual level. Parity of participation is predicated on the power to be considered an equal in any circumstance of social action – regardless of chosen or ascribed characteristics to individuals or groups emerging from *pluralism in the lifeworld*. Considering Fraser’s use of the concept in several texts which often critique without concrete solutions, we must accept that this principle of justice is useful as an analytical device to empirically uncover injustices. In other words, social justice as parity of participation offers precisely the tools of immanent critique and potential of emancipatory reform of an existing order.

To specify in relation to the previous discussion, on the one hand, individuals separated by functional and social differentiation must nevertheless be held to *equal normative constraints on their behaviour*. On the other hand, whilst behavioural activities may be considered degenerate or irrational *universally*, moral orientations towards societal participation must be given the benefit of equal communicative justification (Forst, 2012). Parity of participation is thus defined not as complete moral relativism, but as having equal opportunity to justify actions through *plural forms of normative reasoning*. Previously defined as an individual moral orientation resulting in observable participation in the system, this suggests that *a plurality of action orientations* must be granted parity of participation by the subsystems tasked with social integration. Hence:

- ***Principle of Social Justice from System to Lifeworld:*** *Normative constraints must be universally applied, regardless of one's position in the social structure.*
- ***Principle of Social Justice from Lifeworld to System:*** *Parity of participation for action orientations towards social integration in the normative order of a given lifeworld (Fraser, 2009:Ch. 4) and in forms of system integration.*

Although these principles appear contradictory, it is important to maintain the system and lifeworld distinction and not equate position in the social structure with a given normative action orientation. Positions in the social structure – which generally entails the concept of ‘class’ (Brunkhorst, 2014) – *does not determine* a given action orientation. The latter is independent and emerging from communicative action in the lifeworld. Moreover, whilst social norms may be pluralised as people communicate in and reflect on more diverse lifeworlds, this does not mean the legally encoded norms which positively and negatively constrain individual

behaviour must likewise pluralise. To do so would create parallel legal systems adapting to pluralism in the lifeworld, yet result in different legal standards for differently classified social position – a form of good intentions gone wrong through the instrumental reasoning of system colonisation. Thus to maintain the legitimacy of the system as a whole, the normative constraints on behaviour must remain equal for all individuals.

IV. Conclusion

It is important *not* to identify the above theory of social justice as perpetually universal. Although similar to Rawls's (1999) two principles of justice, the first principle differs in the sense that normative constraints are not conceived as universal rights, but particular social norms which must be universally applied at any given time if applied at all. That said, the particular norm of freedom of speech in the public sphere is effectively impossible not to universalise at any given time, since granting only one particular perspective on the lifeworld, whilst silencing others, immediately differentiates the social norm of free speech, thus violating the first principle of social justice. Because this theory is epistemologically justified through communicative action, suggesting that all human activity is coordinated by speech, without it, we have no system or society at all. Freedom of speech thus becomes the only ontologically-justified right. Everything else is open to interpretation through communicative action. The second principle differs from Rawls substantially as well since any given action orientation is premised on the 'right to justification' (Forst, 2012) – *but on its own terms*. This is a key shift which effectively invalidates Rawls's (1999b) reliance on the closed society to justify his second principle. Instead of closed, we should consider any society as an open and historically-evolving lifeworld structured by language, yet bounded by a territorialised legal system. This insistence on historical permeability and change creates a necessarily emancipatory trajectory,

because the presuppositions and reifications of a ‘closed society’ are subjected to dissent, critique, and active reconstruction through the power of the better argument. In short, we can have no fixed presuppositions binding communities that remain above critique through communicative action. Only the system and the managerial legal mindset is bounded by territory. The lifeworld cannot be bounded, lest language and thought itself is bounded – an unacceptable restriction on any emancipatory theory.

With this open theory of social justice articulated, we must now engage with the system and lifeworld characteristics of advanced capitalist labour markets in CPE. In order to make this theory analytically operational for CPE, we must follow the same programme of Critical Theory: 1) identify the organising principles of capitalist labour markets conditioned by welfare states as systems of labour allocation, the lifeworld norms providing content for action orientations to participation in that system, as well as the social structure emerging from those organising principles; 2) distinguishing between the facts and norms of contemporary political economy; and 3) generate hypotheses about the Hartz Regime specifically reflecting the principles of social justice.

Chapter 4: Social Justice in Contemporary Labour Markets

*“The entry of ‘real’ commodities into markets is regulated or at least codetermined by the criterion of their expected saleability. This is not the case with the ‘commodity’ labour power. Even in purely quantitative terms, the rising ‘supply’ of labour power is determined by non-strategic demographic processes and the institutional rules of human reproductive activity. It is also determined by socio-economic processes which ‘set free’ labour power from the conditions under which it could maintain itself other than through sale in the market.”- Claus Offe, *Disorganized Capitalism*, 1985⁸*

Formal economic models generally conceptualise labour markets as equivalent to commodity markets in that parties to labour contracts, the employer and employee, are methodological individualists responding to price signals and thus as a whole, the market automatically tends towards equilibrium. Dis-equilibrium results from exogenous, cyclical, or interventionist policies like unemployment benefit duration, as well as ‘frictions’ between what potential employees would like in a job, and what potential employers would like in a worker (Rogerson et al. 2005; Pissarides, 2011). Functioning under the assumption that workers match their wage needs with the wage and skill-set needs of employers, this conceptualisation fails to provide a realistic assessment of how labour markets are experienced. Dominated by methodological individualist ontology and a convenient assumption which “treats workers and firms symmetrically” (Pissarides, 2011:1094), the discipline of labour economics is a poor resource for providing an answer to the ultimately normative question: *who must work for a wage and why?*

Answering this question will assist in operationalising the previous chapter’s critical theory of social justice through conceptualising the labour market as a key site of interaction between social norms of the lifeworld, particularly those which differentiate between who must work and who must not, and functional imperatives of the production system. I will first present a definition of the labour market drawing from the complementary work of Claus Offe, Karl

⁸ (Offe, 1985: 16)

Polanyi, and Nancy Fraser. I will subsequently elucidate the labour market as an interaction between system and lifeworld, first as a system which confronts a plurality of normative action orientations towards social integration, drawing on the work of Fraser (2011), followed by a system which engenders social differentiation through defining normative rights and obligations towards participation. I will then specify the incentive structures for participation in terms of normative and instrumental reasoning, generating a matrix of hypotheses for the empirical study of the German Hartz Regime.

I. Organising Principles and Logics of Social Differentiation in Labour Markets

Despite its characterisation as exogenous fact, the allocation of labour by the organising principle of markets is not a universal fact of history. Instead, the contemporary practice of conceptualising labour as a commodity is a recent phenomenon linked with the capitalist mode of production. Although a scholar distinct from Critical Theory, Karl Polanyi (1944) has elucidated the history of treating labour power as a ‘commodity’ – a historical background indispensable for understanding the system of labour allocation in contemporary times.

I.A. The Normative Origin of the Organising Principle of Markets

In pre-modern times, labour allocation was embedded in normatively-structured societies with considerable vertical hierarchies (Polanyi, 1944:67). In the terminology used here, these hierarchies were justified by appeals to the natural timelessness of the lifeworld, conceived as static and eternal – much different than the accelerating dynamic of competitive capitalist systems. However, in a slow process illustrated by the example of dispossessing peasants through the private enclosure of common land in early modern England, Polanyi argued that wage labour was instituted through the coercive apparatus of the state. The rural

peasantry was dispossessed of its land and forced to sell labour power for a wage to survive – thus ‘commodifying’ it. By the mid-19th century, this process was widespread. With material gain and economic competition emerging as increasingly important social norms in the European lifeworld, the commodification of labour derived from the liberal ideological principle which sought to separate economic production from arbitrary political and social authority (Polanyi, 1944:137). Instead of subordination to the capricious diktats of nobility and their bloodlines, the economic sphere was to be entirely subjected to the self-regulating market mechanism in which “order in the production and distribution of goods is controlled by price alone” (Polanyi, 1944:68). In short, markets *became the organising principle of society* for industrialising Europe – resulting in two major consequences.

First, marketisation as an organising principle deliberately separates social traditions and political authority from labour allocation, subjecting it to the price mechanism. Labour is not ‘produced’ (ie. having children) for the sake of profitable sale however, nor can it be considered fully transferable. Every “buyer of labour power must rely on the ‘participation’ of the worker since, on the one hand, that buyer cannot exclusively control the purchased commodity, and, on the other, the utilisation of labour power is linked inextricably with the cooperation of its owners” (Offe, 1985:57). The worker was not born as a functional tool to be traded in markets for a price, but as a moral agent who must consent to work. Secondly, due to their moral agency, those subjected to this commodification instigated a ‘double movement’ through raising normative counter-claims against employers and the state throughout the latter 19th and early 20th century. Consequently, the welfare state was born, intended to de-commodify labour and arrange for its social protection – reaching its ‘golden age’ from 1945 to the early 1980s (Hay and Wincott, 2012).

Reinterpreted into the epistemic framework of this thesis, Polanyi suggests there are two organising principles of society (Polanyi, 1944:132): one which is focused on establishing

the accumulation motive as the primary action orientation of individuals through the *marketisation* principle; and the other based on the reciprocal stabilisation of economic relations through the principle of *social protection*. Both represent a social norm of human behaviour established through communicative action in the lifeworld and implemented as an organising principle. As organising principles, both provide a singular norm coordinating subsystems – price for markets, reciprocal chains (Polanyi, 1957) of social authority for social protection – as well as a basis of social differentiation forming the social structure. Therefore, following the institutionalisation of both labour markets and the welfare state, the post-war order in capitalist Europe was organised by both market and social protectionist principles with their varying emphases engendering different logics of social and functional differentiation between welfare regimes.

I.B. Welfare Regimes as Logics of Social Differentiation

Conceived as systems balancing social protection and the marketisation of labour, Esping-Andersen's (1990) theory of welfare regimes highlights the central role labour markets play in social and functional differentiation. To illustrate how the logics of differentiation manifest empirically, I will utilise contrasting cases, drawing on Schröder's (2013) typological synthesis of VoC and welfare regime research, selecting Sweden, (Social Democratic), the UK (Liberal), and Italy (Conservative) to contrast with the German regime. Delineated in three dimensions of variation between regimes institutionalising degrees of social protection from the market, the welfare state becomes what Esping-Andersen (1990:23) calls "a system of social stratification."

First, as described by Esping-Andersen (1990), the concept of *de-commodification* operationalises Polanyi's dichotomy between labour as a commodity and labour as embedded

within the socio-normative lifeworld. This is a direct normative intervention in the pure commodity relationship of labour markets, with regimes delineated by how non-participants in the wage-labour nexus obtain subsistence. Liberal regimes correct system-allocation problems of labour markets for a time deemed normatively sufficient before employment becomes an individual responsibility, whilst social democratic regimes, at least in theory, provide longer term income support. In each however, *decommodification is contingent on the existence of labour markets as an organising principle of society*, and thus produce a social structure *inherent* to the logic of social differentiation implied the organising principle. Offe clarifies (1985: 14):

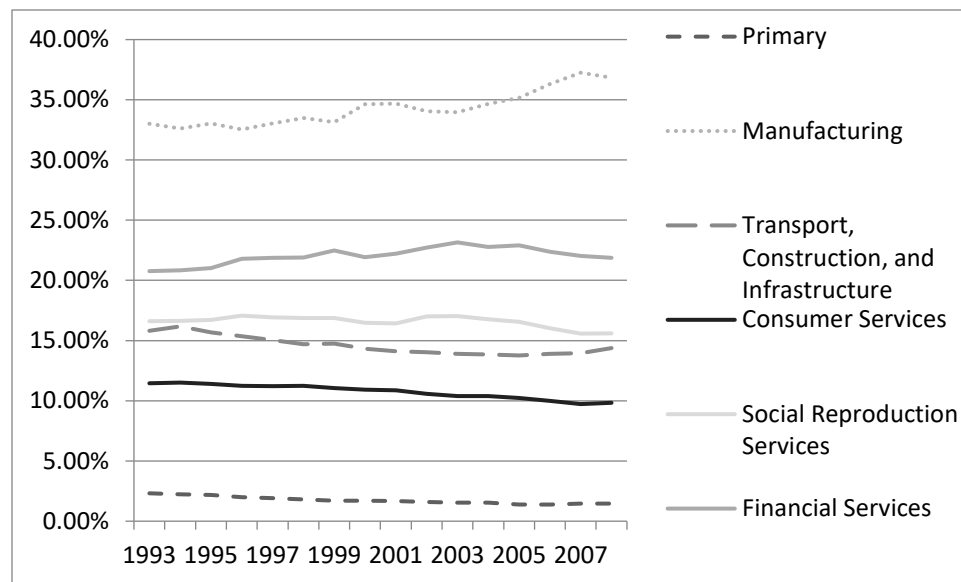
“In capitalist societies, the labour market is the main institutional solution to a dual allocative problem... on the one hand, the production system must be supplied with the labour inputs it requires; on the other, labour power must be provided with monetary (income) and social (status) means of subsistence. The labour market solves both of these allocative problems simultaneously... the labour market organizes production and distribution as an exchange relationship of wages and labour inputs and that here, as in all other markets, suppliers and buyers of labour stand opposed.”

This dichotomy between supply and demand is inherent in all markets. For capitalist labour markets in particular, as recognised by Polanyi (1944:132), actors are differentiated by which side of the labour market they find themselves, generally understood as the most basic marker of *social class* – with the distinction relating to ownership of the means of production (Marx, 1997; Offe, 1985). Because this direct intervention in labour markets is integral to the principle of justice from system to lifeworld, it will be detailed further below.

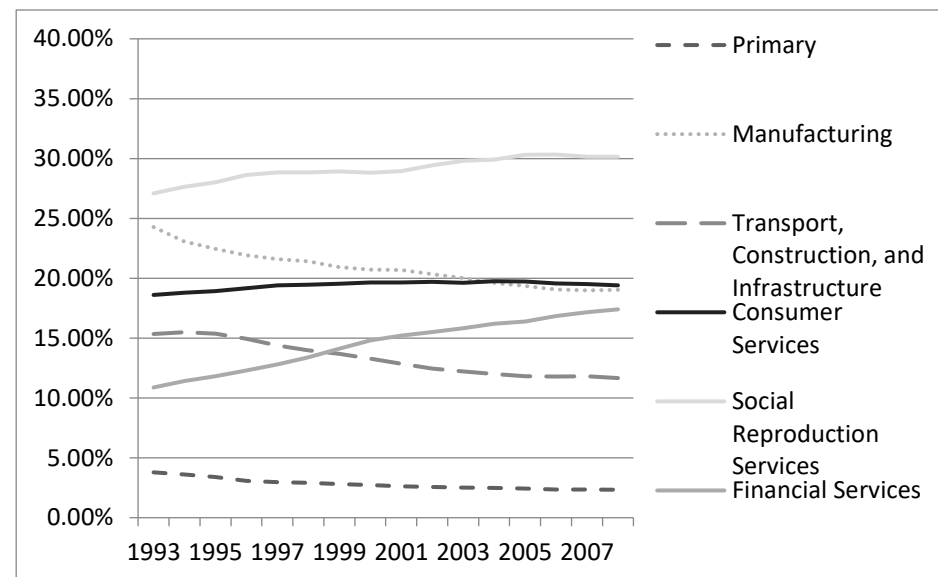
Second, the relationship between skill formation and qualitative differences in employment, status, income, and stability is essential in shaping the expectations of individuals

oriented towards labour market participation, as well as firms' expectations regarding the skill sets of potential employees. This dimension thus underlines support for human capital investment, favoured by Hemerijck (2013). Drawing from Hall and Soskice's (2001) dichotomy between general and specific skills, the German model of skill formation has been particularly suited for highly specialised division of labour in industrial workplaces (Yamamura and Streeck, 2003; Thelen, 2004). The sectoral structure of the economy is thus intrinsically related to the human capital emphases of a given social policy regime as demonstrated in Graphs 4.1- 4.8 below. The German conservative regime, as well as the Italian, entailed a male-breadwinner developing specific skills for the industrial sector, followed by expectations of stable employment often in a single firm, whilst women were relegated to a dependant status, yet skilled as unpaid primary caregivers to children and the elderly. In contrast, the liberal UK regime focused on 'general skills' with various types of flexible services driving employment growth, along with a mixture of paid and unpaid service provision for care work. As evinced by the high employment in social reproduction services in the Swedish case (see Graph 4.4 below), the social democratic regime increases employment through the welfare state directly, often to emancipate individuals from normatively-structured hierarchies of ascribed cultural value in the domestic sphere (Sainsbury, 1996; Esping-Andersen, 2009:104) – thus turning care work into state-sponsored wage work that is often done by women (Rosen, 1997).

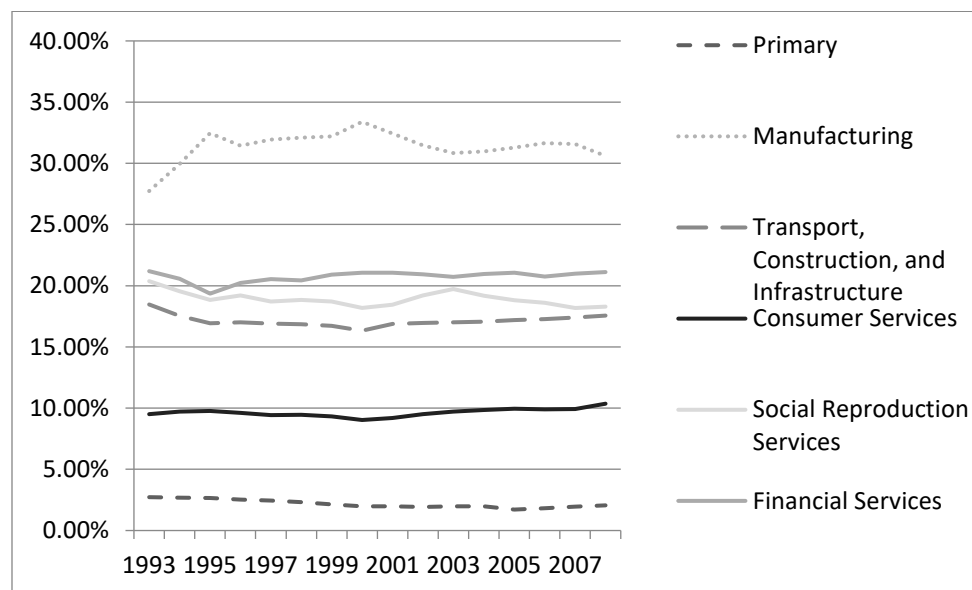
Graph 4.1 Germany Output (1993-2008)⁹



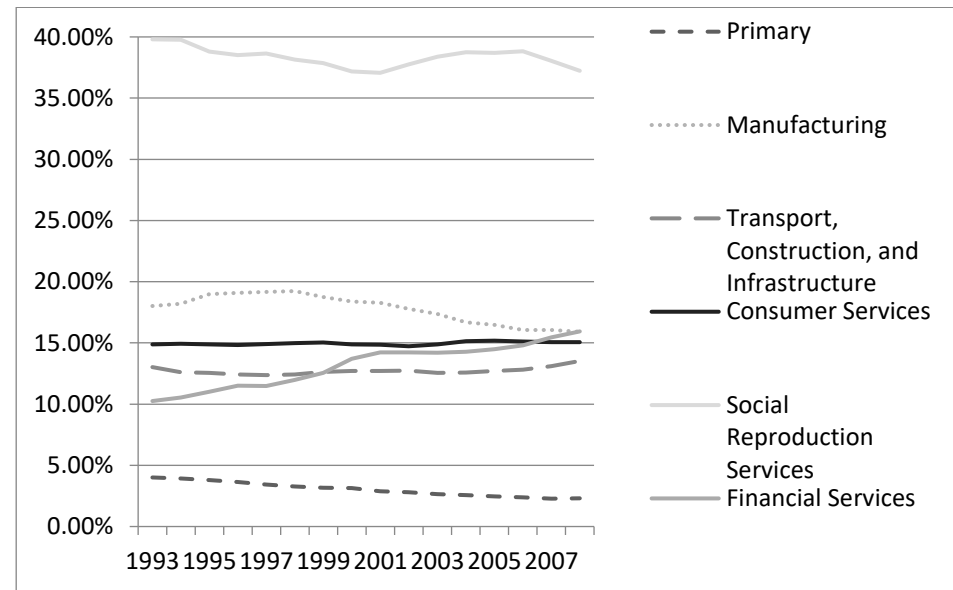
Graph 4.2 Germany Employment (1993-2008)



Graph 4.3 Sweden Output (1993-2008)

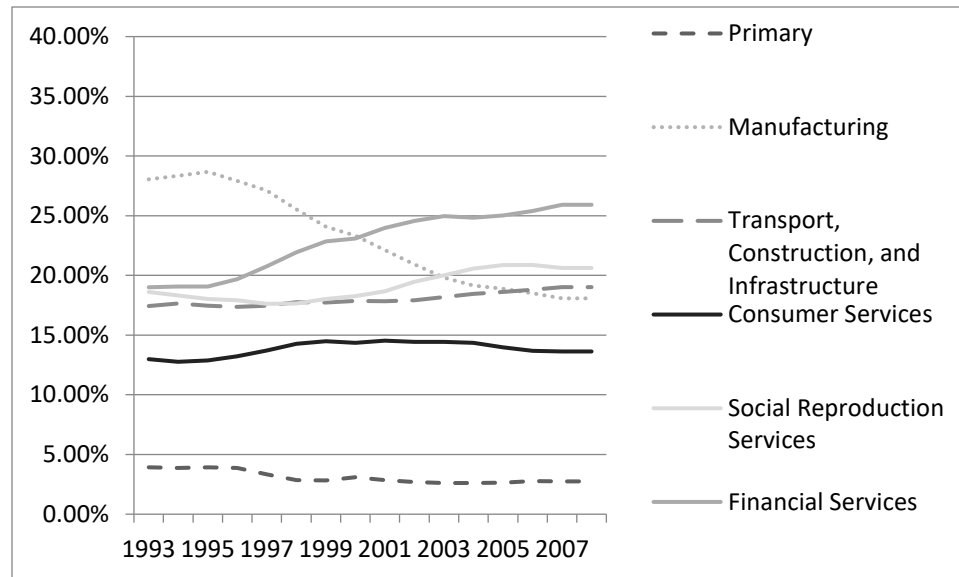


Graph 4.4 Sweden Employment (1993-2008)

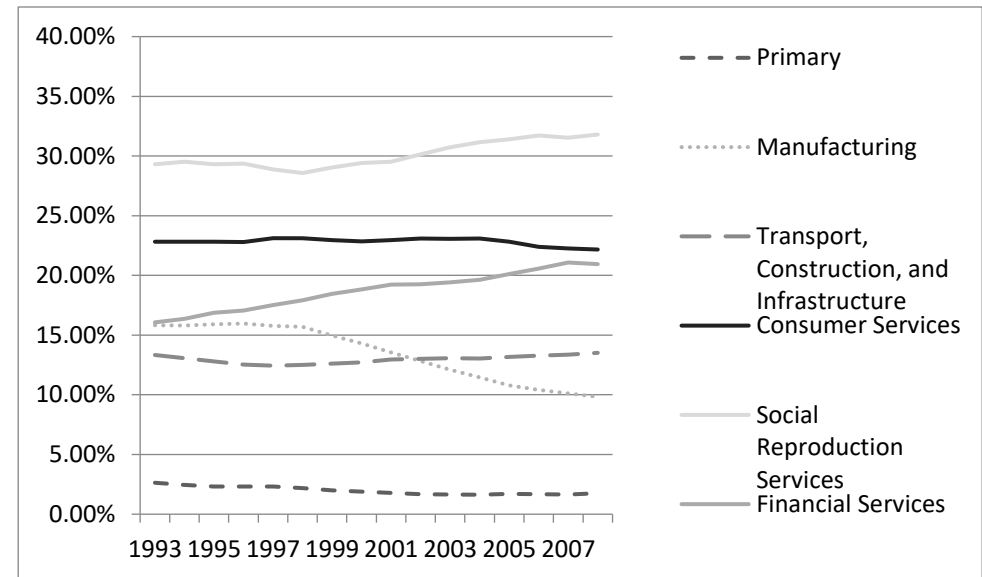


⁹ All statistics taken from the OECD STructuralANalysis Database (STAN).

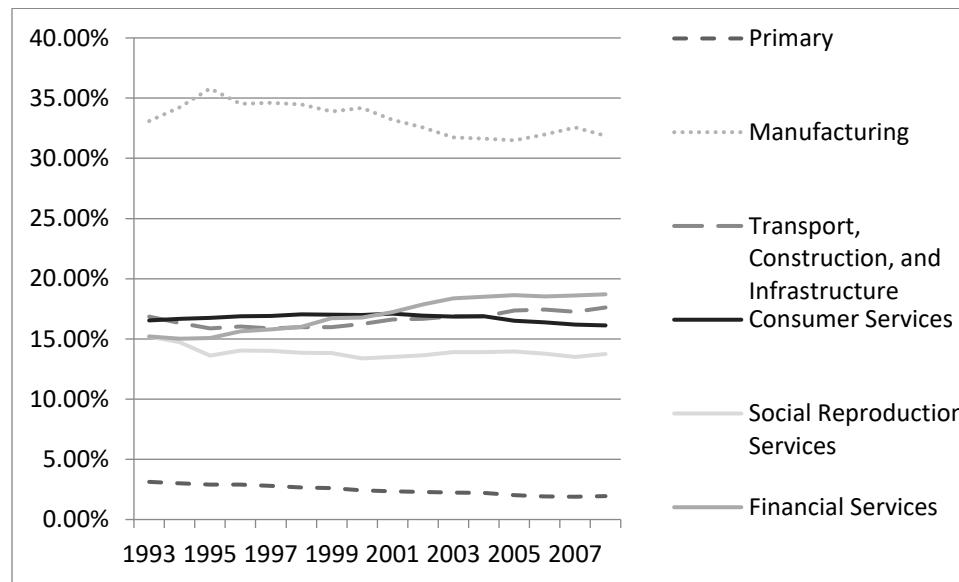
Graph 4.5 UK Output (1993-2008)



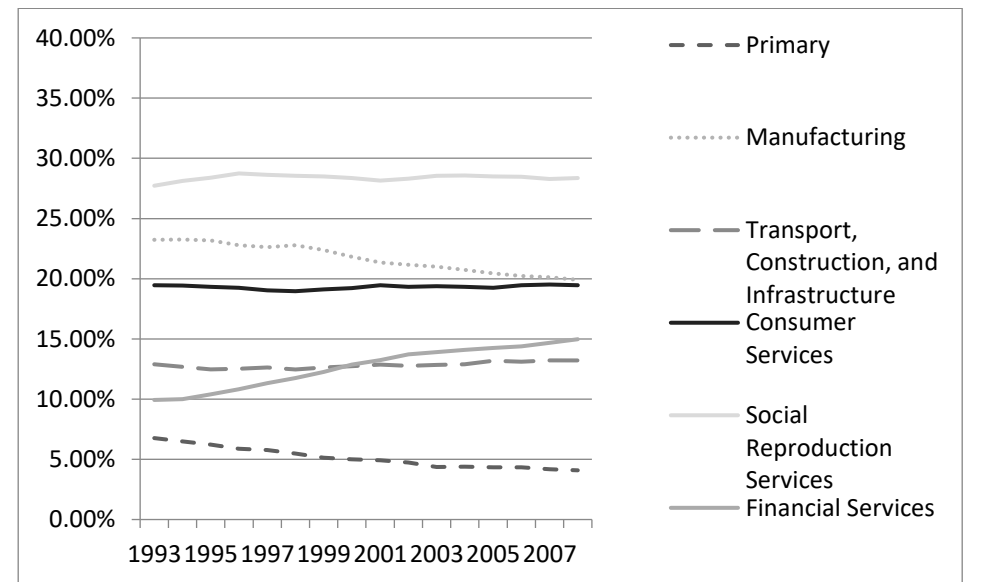
Graph 4.6 UK Employment (1993-2008)



Graph 4.7 Italy Output (1993-2008)

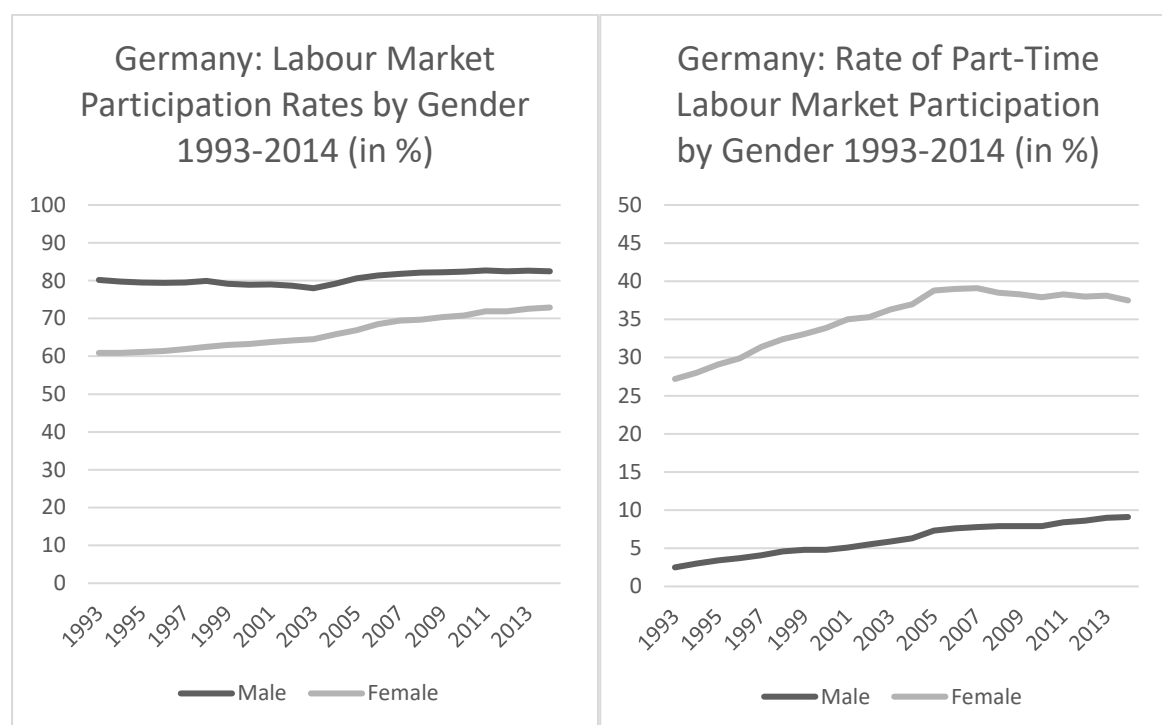


Graph 4.8 Italy Employment (1993-2008)

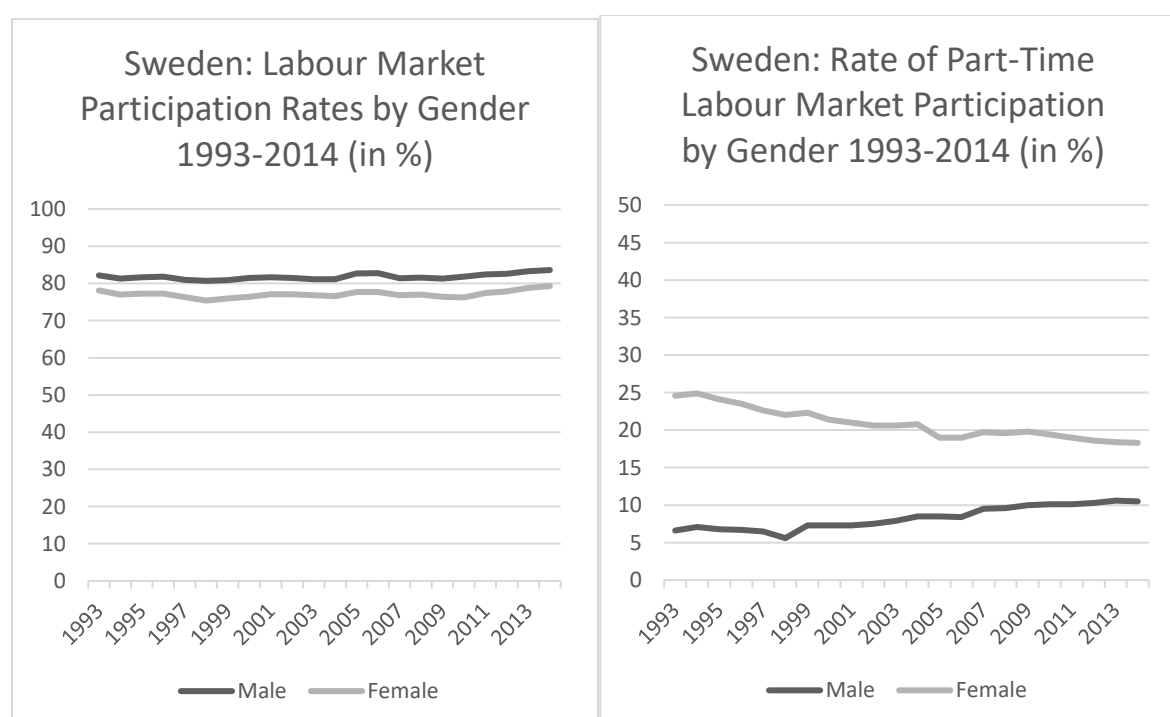


Therefore, the third dimension of social differentiation shaped by social policy regimes is that of care work and household dependency. Initially, the post-war order was “centered on the ideal of the family wage. In this world, people were supposed to be organized into heterosexual, male-headed nuclear families, which lived principally from the man’s labor market earnings” (Fraser, 1994:591). State intervention in labour markets thus reinforced male-centric social norms of family structure and gender roles, leading scholars in CPE to develop studies of *defamilialisation* (Sainsbury, 1996; Esping-Andersen, 2009). Defamilialisation is defined as “the degree to which individual adults can uphold a socially acceptable standard of living, independently of family relationships, either through paid work or social security provision” (Lister, 1994:37, quoted in Sainsbury, 1996:39). Contrasting the decommodification distinction, this dimension separates family-dependent access to insurance-based decommodification schemes, characteristic of the German model, and the individualistic model of the Nordic countries (Sainsbury, 1996; Esping-Andersen, 2009). Because the degree of defamilialisation shapes the rights and responsibilities of non-market relations, they emerge from normative patterns associated with *ascribed roles of interdependency*. As is evinced in graphs 4.9 – 4.12, the classic conservative welfare states, represented here by Germany and Italy, illustrate the significantly lower female labour market participation when contrasted with the liberal UK and particularly the social democratic Sweden. When examining part-time employment, the conservative welfare states likewise illustrate the tendency for women to only supplement the household earnings through part time work. On the other hand, part-time employment is considerably less common and in decline in Sweden, with the gender discrepancy closing over time. The UK also shows slight declines in part-time employment, although without discernible convergence of the admittedly lower share of part-time work than the conservative regimes, but higher than the social democratic.

Graph 4.9: Germany Gendered Division of Wage Labour¹⁰

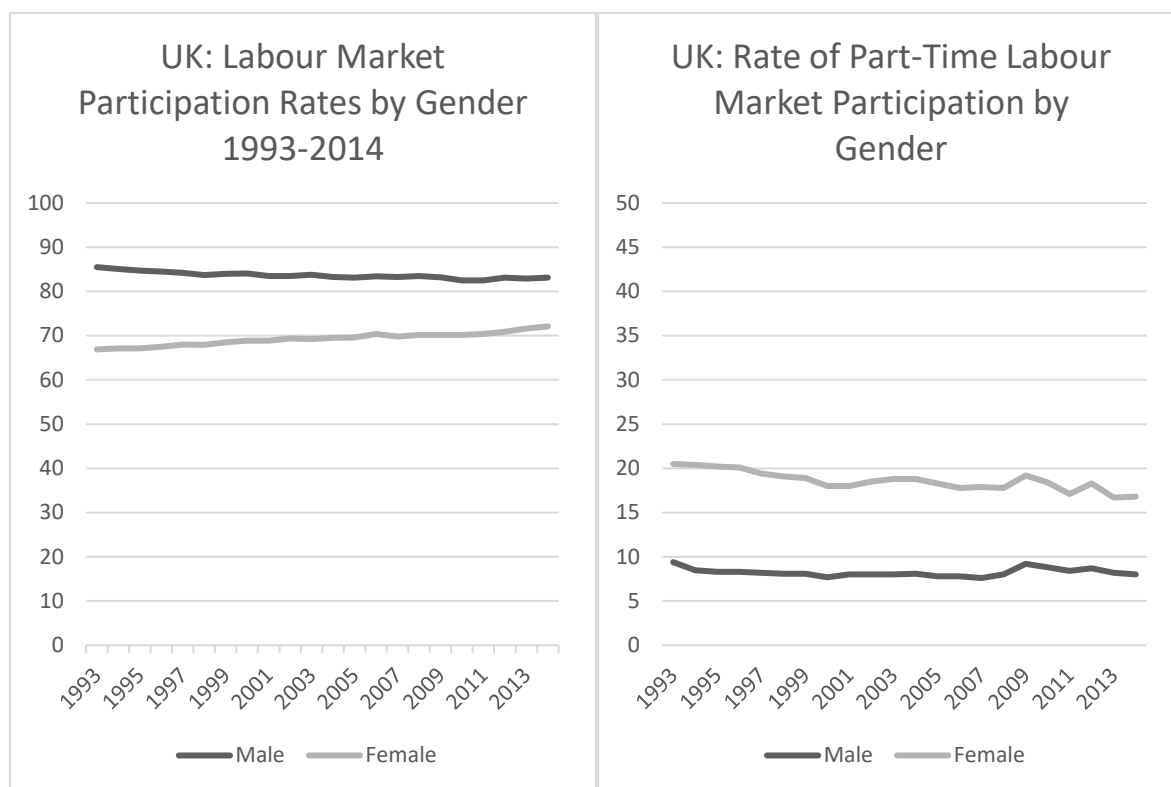


Graph 4.10: Sweden Gendered Division of Wage Labour

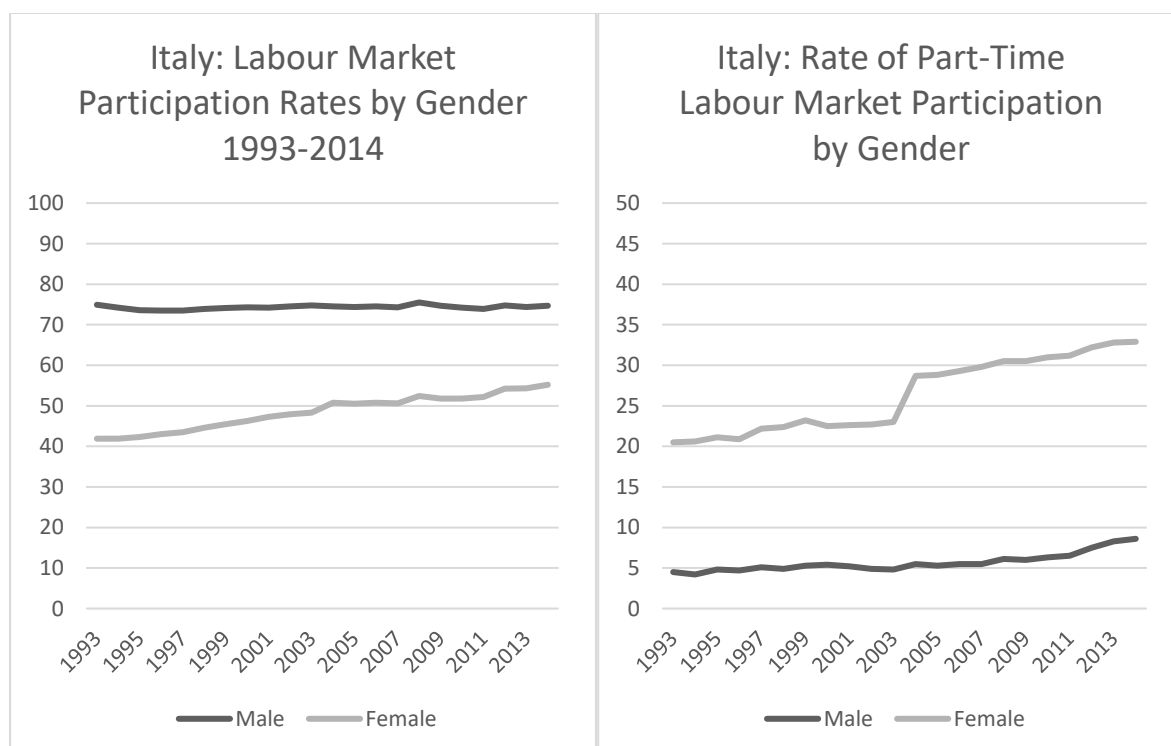


¹⁰ Source for 4.9-4.12: www.stats.oecd.org

Graph 4.11: UK Gendered Division of Wage Labour



Graph 4.12: Italy Gendered Division of Wage Labour



These illustrative contrasts suggest that, in general, the actual jobs available in an advanced political economy are based on normative decisions about the distribution of roles between households, the state, and the market implemented through social policy. However, because the decline in agricultural and industrial employment is universally uniform across the capitalist systems of OECD countries, this can be understood as a ‘fact’ of *postindustrialisation* – a phenomenon driven by technological change and widely studied since Marx’s *Grundrisse* (Marx, 1977) to late industrial theorists like Daniel Bell (1973). To specify, as is demonstrable in the German case (see Graph 4.1 and 4.2 above), although relative employment in the traditional sectors of agriculture and manufacturing is decreasing, relative output in manufacturing especially is increasing – suggesting increased fixed capital investment at the expense of employment. Although the dramatic relative decline in British manufacturing suggesting a political source of de-industrialisation, deindustrialisation and the rise of service employment is evident across all cases. Excepting a wholesale collapse of civilisation, ‘forgetting’ technological advancements applied to the production process should not be considered a social norm, since it requires the elimination of pre-existing knowledge of physical processes tied not to social convention, but the material transformation of nature accelerated by increased automation. Thus, we can make the simultaneous claim that the male-breadwinner model of factory work supported by women working without pay in the household is not a viable model in the contemporary period, as those jobs are objectively disappearing, yet the future distribution of service labour between the state, market, and the household is *open and politically contestable*.

Because this distribution is open and contestable, it suggests that Polanyi’s dichotomy between marketisation and social protection is problematic in illuminating the relationships between social classes and sectoral employment, as well as the evolving distribution of labour between households, the state, and the market. To illustrate the problem, Streeck (2014:Ch. 2)

offers a diagnosis of the contemporary era as reminiscent of the early days of the laissez-faire period in nascent capitalism, suggesting that a re-embedding of the market into stratified social norms equates with social justice much like Polanyi. However, when examined through the defamilialisation lens, this dis-embedded and re-embedding dynamic between marketisation and social protection simply exchanges one form of potential injustice for another, leading to a dilemma: if the Critical Theorist seeks immanent critique with emancipatory intent whilst accepting Polanyian theoretical categories of marketisation and social protection – particularly relevant when examining the labour market – how can an emancipatory critique proceed when each Polanyian category presents a different form of domination? Fortunately, like her critique of Habermas, Fraser (2011) has recently revised Polanyi as well. By examining this revision, we will be able to operationalise the principle of parity of participation from lifeworld to system.

II. Social Justice from Lifeworld to System

To retrace the contours of social justice from lifeworld to system, we must first recall that reflective equilibrium was unable to generate a singular conception of rational participation even between Rawls and Nussbaum. At the same time, the assumption that obtaining a job equates to social justice characteristic of the SIP reflects the descent into instrumental reason by SIP practitioners reifying capitalist labour markets as the only allocation system of individual life plans. We therefore established that a *plurality of action orientations towards social integration must be granted parity of participation* because a) we cannot assume participation equates to a single form of rationality, nor simply obtaining wage labour. Through re-examining the origin of wage labour in Polanyi's historical analysis, Fraser (2011) has developed the concept of a 'triple movement' which I will operationalise for action orientations in the following section.

II.A – The Triple Movement

Initially, Fraser (2011) accepts that instituting self-regulating markets in traditional societies resulted in a counter-movement of society reacting against such imposition. However, we must not assume the early liberal ideologues were against a particularly just and harmonious social order. Instead, the hierarchical domination present in pre-capitalist communities was precisely what many early liberals were aiming to emancipate themselves from. Like Habermas's conception of the public sphere reflecting a benign lifeworld, Polanyi's conception of 'society' largely ignores the suffering of marginalised groups in this idealised pre-industrial social state. Fraser instead suggests that there should be a 'triple movement' by which culturally devalued publics are recognised for their *emancipatory* struggles both against the capitalist system and a normatively-structured lifeworld which devalues their labour and ascribes natural inferiority. This triple movement manifested itself in the working class, de-colonisation, and feminist movements – each rejecting their subordinate status in the prevailing social order. When contrasting social protection as an organising principle, Fraser (2011: 145) thus argues:

“Whereas protection is opposed to exposure, emancipation is opposed to domination. Whereas protection aims to shield society from the disintegrative effects of unregulated markets, emancipation aims to expose oppressive relations wherever they root, in society as well as in economy. Whereas the thrust of protection is to subject market exchange to noneconomic norms, that of emancipation is to subject both market exchange and nonmarket norms to critical scrutiny. Finally, whereas protection's highest values are social security, social stability, and solidarity, emancipation's priority is to overcome domination.”

In her description of emancipatory struggle, Fraser argues that the public sphere is not a terrain of rational deliberation for consensually binding decision-making, but a terrain of struggle for recognition and release from the fetters of normative and economic domination. Therefore, *three organising principles exist in society*: social protection, marketisation, and emancipation – each standing in ambiguous tension with the other. In turn, each of these organising principles has an attendant logic of social differentiation which channels individuals into systems of instrumental action – thus linking together individual participation with organising principles through instrumental reason. Marketisation differentiates between social classes and is mediated by price and redistribution (Fraser, 2003). Social protection differentiates social statuses and is mediated by normative hierarchies of social authority, effectively based on traditional and cultural values in the lifeworld which morally compel action yet hold exclusionary status-based criteria (Offe, 1985). At the same time, those traditional cultural values can also oppress specific individuals with ascribed inferiority along gender and ethnic lines, just as classist social structures generate domination based on education and inherited property. This initiates an emancipatory thrust which *seeks normative change through organised political action*. With an organising principle based explicitly on emancipation, social and functional differentiation is open, contestable, and based on the power of the better argument determined through communicative action in the public sphere.

II.B – Organising Principles as Reflecting Action Orientations to Social Integration

With these organising principles delineated, they beg the question of whether we can identify which category of individuals are oriented towards each organising principle. In so doing, the problem of defining an empirical subject requiring parity of participation for a just order becomes highly problematic. For instance, although Polanyi is reticent to consider the industrial capitalists in 19th century Britain as the only instigators of marketisation as an

organising principle of society, he does admit that there are definite correlations between this class and the public advocacy of total commodification (Polanyi, 1944:132). Whilst someone from a more privileged class background may indeed be inclined towards marketisation as an organising principle, essentialising class as determining moral orientation effectively assumes precisely the mechanistic determinism Horkheimer's (1972: 229) conception of Critical Theory aims to emancipate social subjects from. This becomes even more difficult when adding the third organising principle of emancipation – which requires isolating an empirical subject with given characteristics in need of emancipation. Such an intellectual operation leads to precisely the kind of ascribed ordering framework against which emancipation is sought. Fraser highlights this problem in her critique of Honneth's recognition theory, arguing for the “need to deconstruct the very terms in which attributed differences are currently elaborated” (Fraser, 2003:47). Like her discussion of gender and the family wage (Fraser, 1994), we cannot assume only women require parity with men in breadwinning, but also that men require parity with women in care-giving. I thus propose that we set aside the complex identities of individuals in need of recognition and instead define action orientations towards participating in the capitalist labour market as directly descending from the organising principles of capitalist modernity: marketisation, social protection, and emancipation.

To specify, instead of essentialising the content of a given system-defined class, or lifeworld-defined (gender) identity, followed by an assumed orientation towards participation which can then be assessed by participatory parity, assessing only action orientations allows the agent themselves to provide the content of what it means to be lower class, a certain gender, or any other distinction based on status, sexual-orientation, or ethnicity. By allowing agents to define their own orientation towards social integration, we overcome the specificity versus universality problem plaguing individualistic theories such as Rothstein's (1998), without assuming a holistic society dominating individual socialisation like Honneth (1995). Instead,

we simply classify action orientations as *forms* of social integration derivative of social organisation, rather than specifying content.

Analytically, whether an individual's complex identity is best emancipated through marketised competition, norms of social protection, or political engagement through public reason, is irrelevant as long as each action orientation is granted parity of participation. By making this conceptual move, we can directly assess parity of participation from lifeworld to system without essentialising and assuming the content of an identity in the lifeworld. By adhering to such a classification, we can then assess labour market systems by which action orientations are promoted or sanctioned in empirical practice. The action orientations are explicitly defined as follows:

1. **Marketisation:** arranging the system to direct behaviour towards *commodification* (means) to *maximise capital accumulation* (end). For individuals, this translates into an action orientation characterised by the competitive acquisition of wealth regardless of class background *or social norms*. Social integration is thus rooted in instrumental reason.
2. **Social Protection:** arranging the system *to embed economic relations in social norms* (means) focused on *stable social relations in the lifeworld* (end). For individuals, this equates to an action orientation geared towards the maintenance of predictable long-term expectations, characterised by moral obligations, reciprocity, and reproduction of status orders. Social integration is thus rooted in normative reason.
3. **Emancipation:** arranging the system to *prevent* forced entrance into relations of hierarchical domination (end) through *politicising* the form of social participation (means). For individuals, this suggests an action orientation

towards organising one's life in pursuit of autonomy and non-domination – both for oneself and others – through political action regardless of position in the social structure or identity in the lifeworld. Social integration comes through either form of reason, depending on the economic or social focus of emancipation.

With these action orientations defined, empirically addressing parity of participation first requires uncovering how the state (the presumed legal sovereign shared by each society) attempts to socially-integrate each. Therefore, the first phase of empirical research focuses on the Hartz Regime's BA – the agency managing the German labour market as well as distributing social welfare. By focusing on the BA, we can assess how German law considers action orientations towards the labour market generally, thus providing the most precise point of contact between lifeworld and system for individuals both in the labour market and society generally. More details on how to conceptualise the BA will follow in the next chapter on method.

Focusing on action orientations towards labour market participation is not a new theoretical construction, even when studying the BA specifically. Previous research (Bescherer et. al, 2008; 2009) on the Hartz Regime identified *Erwerbsorientierung* (acquisition/earnings orientation) as one of three forms (Dörre, et. al., 2013:126): At-any-price-worker, As-if worker, and non-worker. However, these orientations are placed along a single dimension which closely relates to the marketisation orientation above and the importance of regular wage-labour as a singular normative principle (Bescherer et. al. 2009:147). This definition of an action orientation is therefore effective for causal analysis and empirical description. However, it fails to operationalise an emancipatory pluralism in social integration and is thus ill-suited for an analysis focused on social justice. Whilst the above approach answers how to assess parity of participation from lifeworld to system, it does not assess whether normative

constraints are universally applied to every position in the social structure. To do so, we must shift focus from system to lifeworld.

III. Social Justice from System to Lifeworld

The historical development of labour markets suggests an emerging social norm institutionalised as an organising principle through separating labour allocation from reciprocal relations of social authority and subjecting this process to the price mechanism. As previously elaborated, the social system is a means of organising individuals to achieve a given socially-defined end. Those ends emerge from social norms in the lifeworld, which provide moral motivations for participation which have been defined as action orientations. These orientations were subsequently defined as marketisation, social protection, and emancipation in modern capitalist societies. Although social justice from lifeworld to system is achieved through parity of participation between these action orientations, contemporary capitalism is marked by the predominance of marketisation. We must therefore interrogate the social structure of capitalism.

III.A – The Social Structure of Capitalist Labour Markets

Considering the basic material necessities of existence are dependent on the production system of a given society, how subsistence is distributed takes precedence over other concerns. How society provisions subsistence thus comes prior to norm-driven action orientations, *under the assumption subsistence is a fact of life*. I thus argue the social structure of capitalist labour markets is defined by *the source of subsistence*. As is daily experienced, food, shelter, and clothing are seldom universally provided for in any variety of capitalism, and thus the distribution of rights to subsistence establishes the base logic of social differentiation in

capitalist society. Because most European social systems like the Hartz Regime prevent exposure and starvation however, the social structure instead functions as a system which distributes access to subsistence from differentiated sources based on normative and instrumental forms of reasoning in the logic of social differentiation. Some actively participate in the production of subsistence, capital and labour, whilst others are inactive because their “productive function is not regulated by labour contracts, but through status rights and obligations” (Offe, 1985:26). I will thus start by defining labour and capital as positions in the social structure, before turning to the inactive segments of the population.

Labour is quite simply defined as those “whose continuous exchange of labour power for waged income takes place in the framework of a labour contract” (Offe, 1985:27). Regardless of alignment with the life plan pursued by the worker, the labour contract obliges the worker to temporarily surrender their autonomy, effort, and thought in exchange for an income which procures subsistence. Labour contracts are usually conditional on some kind of work actually being performed, and thus “the option of termination [...] available to the respective contractual partners looms over the labour relation as a structural condition” (Offe, 1985:27-8). Unlike slavery and serfdom however, both sides have the right to terminate this relationship, depending on various rules and regulations endogenous to a given variety of capitalism.

The direct counterpart to labour is *capital*. “Because of their possession of means of production with which they can combine their labour power, persons in this category do not need to sell their power but, rather, can offer the results of this combination (goods and services) on the market” (Offe, 1985: 28). In short, capital is an active participant in the labour market through contracting labour and owning the means of production. Capital procures subsistence through generating profits from selling the products of this combination in end markets. Although freelance work often identifies those who do not hire workers as capitalists

themselves, because they do not hire workers to produce goods and services sold for a profit, freelance work is more akin to highly flexible labourers superficially categorised as independent capitalists through ‘bogus self-employment’ – a well-established concept (see Beck, 2000; Frade and Darmon, 2005).

Because they directly produce subsistence both for themselves and inactive segments of the population, in all capitalist social systems, labour and capital are the most important social classes. These classes are mostly identifiable by their position in offering or receiving labour contracts, and secondarily, those which own the means of producing subsistence – with the *relations of production* defined as the strategic interaction between these categories.

“*Relations of production [author’s emphasis]* are those institutions and social mechanisms that determine the way in which (at a given stage of productive forces) labor power is combined with the available means of production. Regulation of access to the means of production, the way in which socially employed labor power is controlled, also determines indirectly the distribution of socially produced wealth” (Habermas, 1989:120).

In other words, *all* subsistence and therefore wealth is produced by the relations of production between capital and labour, whether capital is technology-intensive like highly mechanised agriculture, or labour intensive like the manufacturing of textiles, or the labour-intensive activity of providing care work. With labour and capital thus defined, we must now ask: who has a right *not* to participate in this relation?

Because they are not participating in the relations of production, those whose labour power is “not treated as a commodity, but is employed in accordance with culturally and legally defined obligations” (Offe, 1985:26) clearly derive their subsistence from materially-substantiated social norms. For instance, stay-at-home parents or welfare recipients subsist off

“recourse to the family system or to public institutions” (Offe, 1985:27). More generally, *everyone* outside the labour market is in some way *dependent* on the relations of production between labour and capital – either dependent on the state, or dependent on the family. Those who are receiving unemployment insurance or social welfare are themselves dependent on the state for subsistence. Likewise, those who retire and live on state-supported pensions, albeit often transitioning into the final category discussed below, are nevertheless ensured a certain standard of living based on the normative commitments of the state and society – rather than simply their own ‘investment’ in the pension system. This differs from children or unpaid care-workers in the household – usually ascribed by gender in conservative regimes (Sainsbury, 1996) – because these categories tend to be considered unable or effectively prohibited from full participation in the labour market. As shown earlier however, the normative origins of deciding who is a household dependant and who is a state dependant are clearly contestable in the post-industrial era. Nevertheless, in all cases, subsistence is generated through the normative commitments of the family or the state to ensure dependants do not starve. Although this would generally entail the end of our discussion, another category of persons clearly has the option *not* to participate.

This final category in the social structure of capitalist society is the distinction between productive capital and interest-bearing capital, or moneyed capital – the latter usually referred to by the simple term *rentier*. Although we have defined the factual aspects of post-industrialisation as the decline of primary sector and manufacturing employment, driven by technological change, the corresponding rise of employment in financial services should not be considered a factual consequence of technological change – emerging from a better understanding of physics or chemistry – but a social tendency within advanced capitalist societies (Wallerstein, 1997). Although difficult to define precisely, Epstein and Jayadev (2005:49) argue this category originally emerged from Keynes, who suggested that hoarding

liquid assets and refusing to employ workers for real production represents the “‘functionless investor’, who generates income via his ownership of capital” (Epstein and Jayadev, 2005:48). Referencing Kalecki, the source of subsistence thus “represents the income received by owners of financial firms, plus the return to holders of financial assets generally” (Epstein and Jayadev, 2005:48). Nevertheless, this right is a politically instituted norm, as Lapavitsas (2013:108) highlights:

“When finance is shorn of its institutional particulars, it essentially amounts to advancing monetary value either against and promise to pay it back, or against a title of ownership over the economic activities that would deploy advanced value. Financial institutions, markets and assets can be understood as methods of issuing, collating, exchanging, and clearing promises to pay as well as the titles to ownership... in short a system of finance could emerge only if capitalist relations already permeated economic life.” (Lapavitsas, 2013:108).

In other words, the rentier effectively governs the relations of production through normative claims on others’ future incomes or property – a claim made possible by the legal and monetary structure established by the state through property rights and the banking system. Although employing proxies to invest in firms which subsequently hire workers to produce subsistence in society, the rentier does not directly participate in the labour market. Therefore, anyone with legal claims on another’s future income from productive activity in the labour market sufficient for subsistence, from either capital or labour, is *not* obliged to participate in the labour market. From the source of subsistence perspective, this right is no different than an unconditional right to welfare income, as the state effectively guarantees *the right not to participate*. However, considering this right emerges from a different aspect of the organising principle of markets, it should be considered a different class in the social structure than those dependent on the state.

Therefore, the social structure of the capitalist system, when examined through the prism of the labour markets and the source of subsistence, has four categories:

Rentier: Those who have amassed sufficient liquid assets to derive dividends from investments, or are positioned within the monetary system to derive subsistence from claims on others' future income through interest or dividend-bearing instruments emerging from financial intermediation.

Capital: Those who own the means of production *and* participate in wage-labour contracts to produce goods and services for consumer markets, generating subsistence through procuring profits from selling those goods and services.

Labour: Those who procure subsistence through active participation in the production system by combining with capital and procuring a wage.

Dependants: Those who are dependent on the normative commitments of the family or the state in maintaining their subsistence rather than active participation in the labour allocation system.

If we define social class in capitalist societies from the perspective of sources of subsistence, then the four classes above capture all individuals in relation to the labour market descriptively. Although some may mix various sources of subsistence, particularly the working poor, as well as highly paid executives who obtain income as both rentiers and workers, or as capital and rentiers, this categorisation captures the social structure emerging from the logic of social differentiation inherent to the organising principle of labour markets. Although the means-ends logic of this norm has been established as the action orientation of marketisation, namely maximising accumulation in the most efficient manner possible (ie. as little time for as much money as possible), it fails to capture why someone in a dependant status, or someone oriented towards social protection or emancipation would participate in the labour market.

Therefore, the final step in this theory construction is to identify the logics of participation in labour markets. In short, we must ask: *why hire workers, or why work for a wage?*

IV. Logics of Participation and Social Integration

When finally answering the question why anyone would like to participate in the labour market at all, we must separate what is instrumentally rational, and what is normatively rational. This distinction is identifiable through whether social integration through adhering to social norms is prevalent in the communicative actions of participants, or whether explicit means-ends logics which treat the partner to the exchange as an instrument for some generally material end is prevalent. Although this distinction can be difficult to disentangle, because marketisation is the central organising principle of labour markets, the distinction is captured instead by the relation to monetary rewards for participation, or recognition as a socially-integrated moral agent. In terms of the former, it is important to distinguish positive and negative monetary incentives which is easily done by whether participation is necessary to procure subsistence, or to procure luxury and abundance. The former thus highlights the first instrumentally rational incentive to participate in labour markets: *coercion*.

IV.A – Logics of Participation based on Instrumental Reasoning

Because the capitalist system is organised around the preservation of private ownership over the means of producing subsistence, with an asymmetric distribution of this property, those without property do not freely enter the labour market, but are coerced to do so by the compulsion to live – with the compulsion to live previously identified as a *fact of life*. This ‘structural coercion’ axiom has been tirelessly argued by critical scholars since the time of Marx, yet remains largely ignored by neo-liberals and SIP advocates. Hence, another brief

review of the axiom in two supporting propositions – historical and descriptive – will be necessary to establish coercion as a key incentive structure of capitalist labour markets.

Historically, as Polanyi (1944) and others have demonstrated, the labour market emerged largely through the violent imposition of the state, stripping peasants of their traditional rights to subsistence agriculture on common land and replacing it with the gentry's right to unrestricted private ownership (Offe, 1984:99). The purpose of such an activity was based on the liberal ideological principle which sought to separate economic production from political, social, and religious authority which previously governed relations with agrarian producers (Polanyi, 1944:137). Because there is no factual reason why economic production and wage labour should be separated from political authority and normatively-structured social practices, its empirical realisation required forced dispossession of any other means of subsistence, subsequently coercing individuals into waged labour.

Descriptively therefore, without the availability of a frontier or common land to produce subsistence, nor the ownership over the means of producing subsistence, the wage worker is *structurally coerced* into the commodity relationship, forced to sell their labour to capital. While any normal commodity enters the market with expectations of being sold for profit, and would not be produced if this sale was not expected, the labourer enters the market simply because they were born into this life and to continue living it, they, or someone else willing work double, must procure at least one or more subsistence wage (Offe, 1985:16). In short, *under conditions of private ownership of the means of production which are not equally distributed among all individuals in society, barring welfare support, those without property are structurally coerced into the labour market.*

Whilst we can consider the need for wages to subsist as a coercive incentive, the culture of consumerism likewise engenders the desire to possess objects and engage in pleasurable

service provision. In other words, we must identify the boundary between a negative incentive (ie. the coercive) and a positive material incentive to participate which I term the *financial incentive*. The financial incentive effectively aligns capital and labour into a single logic of participation. For firms, the incentive is maximum profit. Although individuals who found firms may have a myriad of reasons to engage in such an activity, workers are hired largely to enhance the profitability of the firm. Workers which are a financial liability for the firm, draining resources without contributing to the production and profitable distribution of whatever the firm produces, are generally fired or kept employed either through direct moral appeals or through negative moral incentives in the form of state regulation requiring permanent contracts. On the labour side, this element of choice can be applied as well. Any worker incentivised financially to participate in the labour market must have already procured subsistence, subsequently wishing to further enhance their material and experiential surroundings. If the financial rewards of labour market participation amount to mere subsistence which social welfare may cover, then it is not a positive financial incentive but a moral incentive as described below.

IV. B – Logics of Participation Based on Normative Reason

In terms of a moral duty to participate in the labour market, which emerges from expectations of individual responsibility, social solidarity, and collectively shared meaningfulness (Habermas, 1989), we must distinguish between positive moral incentives and negative moral incentives as well. Identifying a positive or negative moral incentive is more difficult than the quantified financial incentives characteristic of instrumental reasoning however. Therefore, the following describes the incentive itself, followed by an approach to identifying it empirically – particularly in communicative action.

In terms of a positive moral incentive to hire, as has been demonstrated in numerous studies of firm-culture in economic sociology, norm-based status ordering and reciprocal relations within and between firms is often essential in maintaining the long terms survival of firms in many cultures (Dore, 1983; Dore et al. 1999). This is equivalent to hiring workers or keeping them on despite market imperatives which negatively affect the bottom line. Such a behaviour emerges not only as a longer temporal horizon of production planning as suggested by the VoC approach (Hall and Soskice, 2001), but also because firms can be described as collective moral agents – particularly family-oriented small businesses or firms considered embedded within the lifeworld of the local community. Although moral incentive structures are a considerable problem for firms, as moral obligations superseding functional requirements can result in declining competitiveness and eventual insolvency, they are nevertheless a theoretical possibility.

For research purposes, we can expect firm representatives to communicate an action orientation towards either social protection, as in ‘we do this for the community’ or emancipation as in ‘we work towards positive change in the world through our hiring practices’. Whilst it may be difficult to distinguish genuine moral sentiment from superficial Corporate Social Responsibility (CSR), used as a public relations gimmick to bolster profitability (Bannerjee, 2008), communicating a justification for behaviour in moral terms nevertheless adheres to some pre-existing normative expectation emerging from the lifeworld. Therefore, if a firm explicitly privileges normative decision-making *over the system requirements of maximum profitability*, then this incentive is evident. For workers, moral self-binding to a firm can also be a problem if this morality is not reciprocated. Under these circumstances, the worker may have built a moral orientation towards working for a given employer, and if this is not reciprocated, it becomes a clear moral double standard according to the Kantian mindset described by Brunkhorst (2014). Nevertheless, *if work is described as*

a positive feature of social integration necessary for individual recognition as a moral agent, then the positive moral incentive is evident.

For dependants and rentiers, moral incentives towards participation are generally bound to society in general rather than a specific firm or worker. This manifests itself first through discourse echoing Weber's (1930) classical demonstration of the Protestant Ethic – which effectively regards work as religiously necessary to becoming a noble soul or genuine individual. Beyond the Protestant Ethic, with sufficient tax-financed protective nets and welfare distribution in society, a state dependant becomes increasingly morally-bound to work, as this becomes the key criteria for individual social integration in certain welfare states (Mau, 2003). At the same time, rentiers maybe morally obliged to employ their wealth through investments via public discourse specifying the 'functionless investor' is an isolated dependant on property rights who is better socially integrated through active participation through investment – although this is intuitively implausible and did not arise in field research. Likewise, a firm operating in a certain area may retain workers to keep positive relations with the community or society which provides good infrastructure and educated workers, even if not legally required to do so. Therefore, in both cases, a communicated justification in combination with observable actions should be *beyond what is legally or contractually required* – if and only if, can we then consider a positive moral incentive empirically manifested.

An effective way of empirically distinguishing between a positive moral incentive to work or hire, and a negative moral incentive to work or hire, is therefore if the obligation is explicitly formulated in law or contract. A positive moral incentive to work or hire becomes a negative incentive when either party is legally or contractually obliged to do so. Although a legal obligation implies a coercive threat for non-compliance, only when the coercive incentive is explicitly utilised can it be considered an actual incentive as articulated above. Instead, legal

obligations are better considered as negative moral incentives which are not immediately punishable by violent coercion. For dependants, this manifests itself through the threat of sanctioning or pure exposure to the labour market without subsistence. For firms or rentiers, although universally collected for all positions in the social structure, *taxation* is clearly a negative moral incentive. Considering the global mobility of capital, arguing taxation is a directly coercive instrumental incentive is implausible in the contemporary period, resulting in my classification of taxation as a negative moral incentive or ‘duty’. There is no mounted tax collector ensuring each wealthy citizen is paying taxes on wealth through the force of arms. Instead, there is a legal order in which adherence arises from the moral constitution of the individual more than violent coercion.

IV.C – Logics of Participation Summarised

To summarise logics of participation, there are two positive and two negative incentive structures for labour market participation distinguished by instrumental and normative reasoning. On the one hand, money is an instrumental incentive to participate, both in the negative sense of structural coercion (ie. the lack of it), and the positive sense (ie. the greater accumulation of it). On the other hand, the normative reasons for behaviour manifest either through the negative incentive of legally-binding norms of behaviour, or the positive incentive of moral duty to go above and beyond what is required by the law. These are detailed below:

Instrumental Logics of Participation

1. The *coercive incentive* is identifiable if someone has no other recourse than work to procure subsistence.

2. The **financial incentive** for participation must always be the most profitable course of action and communicated as such.

Normative Logics of Participation

3. A **positive moral incentive** is identifiable only if observable behaviour and communicated justification is beyond what is required by the law or contract.
4. A **negative moral incentive** to participate in the labour market what is legally required and generally described as a moral 'duty' or 'Pflicht' in German.

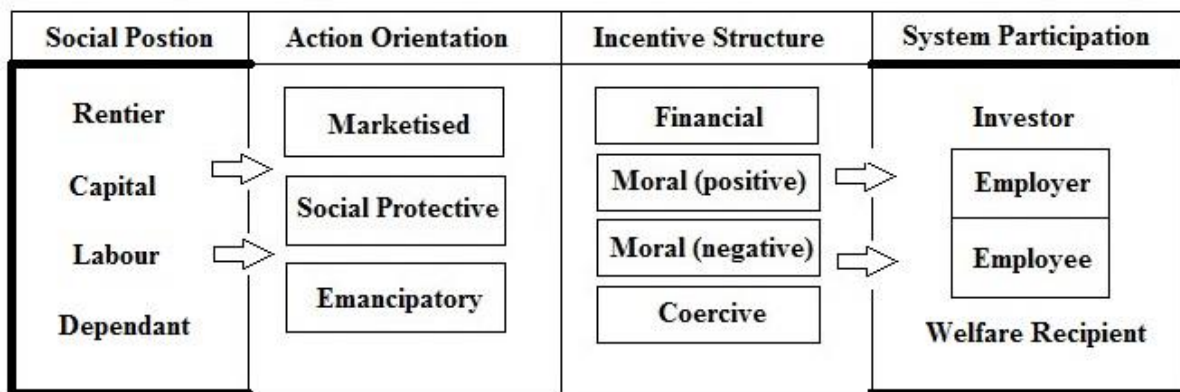
In principle, we must consider a just order one which all action orientations are subjected to the same incentive structures in the same circumstances, otherwise we observe a stratification of expectations placed on participants and therefore a lack of participatory parity. In practice, we must first identify how these theoretical incentives translate into actual measures available for a system managing labour market participation – with the BA offering an organisation explicitly designed to activate individuals in the labour market through using positive and negative incentives. Secondly, we must identify whether certain positions in the social structure are subjected more frequently to negative incentives than others. By returning to the epistemological framework visualised in chapter 2, we can now finalise how the theory developed above can be utilised for empirical research.

V. A Research Programme

The graphic below visualises both how normative action orientations are transformed into observable participation by the system of a capitalist labour market, as well as how class positions in the social structure transform into active participants in the labour allocation system. Each potential individual possesses both a class position and an action orientation. For

each of the three action orientations, four potential incentive structures are possible – which can be applied differently both according to action orientation and social class. We can identify the coercive incentive structure if an individual is subjected to complete exposure to the labour market without basic subsistence (ie. without any welfare). We can identify the negative moral incentive structure if an individual or firm is legally obliged to work or hire workers, or the term ‘duty’ is prevalent in communicative action about this relation. The positive incentive structures are catch all variables, distinguished by the most profitable course of action (ie. the financial incentive) or an endorsement of social recognition beyond both financial reward and legal obligation – by default functioning according to purely normative reasoning.

Figure 4.1 Action Orientations and Incentive Structures for Capitalist System Participation



As articulated, social justice in this context is the parity of participation between action orientations, and equality of normative constraints between positions in the social structure. As articulated further in the following chapter on method, because a positive financial incentive is considered material support for the goals of a given action orientation, it is the most positive incentive to encounter when faced with social integration, followed by a positive moral incentive. This hierarchy derives from Fraser’s (2003) privileging of redistribution for

individual emancipation over the positive recognition of a given orientation in her debate with Honneth. The negative side is the reverse image, with a negative moral incentive considered a superior incentive to outright coercion which removes the effective capacity for free speech and negotiation, subjecting the individual to brute force.

How to identify parity of participation, and thus empirically investigate the principle of justice from lifeworld to system, is through examining how incentives are applied to professed action orientations. In principle, each action orientation should be subjected to the same set of incentives. For example, if an individual professing the action orientation of emancipation is entering the labour market in search of a position which reflects this action orientation (ie. political engagement), then the individual should face the same incentive structures as another individual entering the market explicitly hoping to maximise accumulation. If this is shown to be the same, then parity of participation is met.

In terms of social class position, and thus empirically investigating the principle of social justice from system to lifeworld, incentives to participate, *regardless of action orientation*, should not change according to whether subsistence can be generated from the welfare system as a dependant or as a rentier. More specifically, drawing equivalencies between social classes becomes a problem when the crux of the relationship is between capital and labour surrounding the work contract. To overcome this problem, it is necessary to underline that the passive collector of rents (rentier) effectively equals the welfare beneficiary in terms of system participation, as both are dependent on the state to enforce tax-financed welfare transfers, or tax-financed legal and monetary systems which protect property rights and the collection of rents. In both cases, the agent is outside the labour market and should thus face the same incentive to participate. However, because they are *functionally differentiated* between potential workers and potential investors, this rendering of equivalencies appears counter-intuitive and perhaps controversial. It is thus important to recall Brunkhorst's (2014)

distinction between the managerial mindset, which views investing and working for a wage as fundamentally different, whilst the Kantian mindset observes two functionally differentiated groups *not* participating in the labour market, yet to maintain the legitimacy of the legal order, must not become socially differentiated and subsequently treated by different standards of judgment. To do so creates a double moral standard contrary to the universalism of modern legal equality.

Table 4.1 – Hypotheses Matrix

Action Orientation	Incentive to Participate	Position in Social Structure	Incentive to Participate
Marketised	1. Financial	Dependant	13. Financial
	2. Moral (positive)		14. Moral (positive)
	3. Moral (negative)		15. Moral (negative)
	4. Coercive		16. Coercive
Social Protective	5. Financial	Labour	17. Financial
	6. Moral (positive)		18. Moral (positive)
	7. Moral (negative)		19. Moral (negative)
	8. Coercive		20. Coercive
Emancipatory	9. Financial	Capital	21. Financial
	10. Moral (positive)		22. Moral (positive)
	11. Moral (negative)		23. Moral (negative)
	12. Coercive		24. Coercive
		Rentier	25. Financial
			26. Moral (positive)
			27. Moral (negative)
			28. Coercive

Therefore, the key empirical focus in terms of the principle of justice from system to lifeworld will be directed towards the type of reasoning (instrumental or normative) and whether it is positive or negative, when communicating about participating the dichotomous

wage-labour relationship. To illustrate, if a dependant is morally obliged by law to become an employee, then a rentier ought to be subjected to the same normative reasoning and become an investor. If an already employed worker is morally obliged to continue working indefinitely, then capital (ie. a firm) should be morally obliged to continue a work contract indefinitely. If this is not the case, then the Kantian mindset of universal moral reasoning (Brunkhorst, 2014) is being violated, as one category is subjected to different set of normative justifications than the other.

In order to empirically study this phenomenon in a general sense, a series of descriptive categories similar to hypotheses in causal research are described in the matrix above. In effect, every action orientation must be subjected to an incentive for participation which is represented by categories 1-12. In each case, the category is in the following construction: ‘1. The Marketised action orientation is/is not subject to the financial incentive compared with other incentives’ and so on for each incentive structure. The second section, categories 13-28 (social structure), indicates whether these justifications and incentives apply also to different social classes. At this time, because this research project is exploratory and explicitly evaluative in nature, a systematic ‘testing’ of hypotheses is counterproductive to an inductive data generation. Therefore, these 28 categories above can only be considered open-ended descriptive hypotheses. However, they do represent a micro-level cognitive map which allow for studying and categorising any given political economy of the labour market in terms of social justice as theorised above. The next chapter on method will describe in greater detail how the German case in particular will be studied, yet this matrix of hypotheses is applicable across the varieties of capitalism and welfare regimes in Europe. Although specific institutions of labour markets and welfare states are different between countries, each of them can be described in the terms above, which facilitates empirical exploration in a multitude of cases in the subdiscipline of CPE.

The system which is studied, as alluded to earlier, is the *Bundesagentur für Arbeit* (BA) which is the most fitting institution in the German political economy in which system imperatives and lifeworld norms, embodied in the *Sozial Gesetzbuch II* and *III* (*SGB II*) and (*SGB III*), interact with the labour market. As will be detailed in the next chapter, the general research method is Burawoy's Extended Case Method, specifically utilising a non-experimental vignette method as a way to represent the same three action orientations in diverse empirical contexts. The content of this method shall thus be the opening chapter to the second section of this thesis – which examines the question: is the Hartz Regime socially just?

Part II: Is the Hartz Regime Socially Just?

Chapter 5: Methodology for Empirical Research

*“Observation sentences, with whose help lawlike assumptions can be falsified by contradicting existential assertions, cannot simply be justified by the certainty of sense perceptions. Thus, in a last turn in his argument, Popper finally makes the decision about whether a specific observation sentence subjected to falsification ought to be considered empirically true dependent upon an agreement among scientists conducting research.” (Axel Honneth, *The Critique of Power*, 1991)¹¹*

Considering the descent of the capability approach into the SIP, a theory of justice transformed by positivist epistemology into ideological support for the status-quo, it should seem self-evident at this point that ‘agreement among scientists conducting research’ reflects implemented social norms regularised into reified assumptions of human behaviour. Therefore, the methodological primacy of falsification, advocated by Popper (1962) as necessary to make truth statements, scarcely deserves discussion in this chapter. Nevertheless, in order to empirically explore if the Hartz Regime is socially just according to the theory developed in Part I, we need to settle on a methodology for empirical research – which will necessarily address the ubiquitous principle of falsification in methodological debate. Subsequent to this foray into methodology, two specific questions on method must be addressed: 1) what, who, and where can we observe Germany under the Hartz Regime which reflects both the system itself, and the various social positions differentiated by the organising principles of labour markets? 2) How can we observe the three action orientations of marketisation, social protection, and emancipation empirically interacting with both lifeworld and system?

In the following chapter, I will support using Burawoy’s (1998) model of *reflexive science* as an extension of Critical Theory into methodology, presenting a compromise between positivism and phronesis. Subsequently, the four steps of reflexive science as operationalised in the Extended Case Method (ECM) will be elaborated – emphasising interviews as a technique of intervention and the BA as the point of departure for exploring the Hartz Regime.

¹¹ (Honneth, 1991: 212)

I will subsequently justify 1) recruiting work placement officers (*Arbeitsvermittler* – AVs) of the BA as first phase research participants at the front line of system integration in the Hartz Regime; followed by recruiting the social partners of German corporatism, unions and firms, alongside unemployed individuals themselves, for research participants adequately representing each social position, all within widely divergent regional contexts capturing both the most marginalised and the most favourable contexts of German labour market experience; and 2) I will justify using vignettes to express the three action orientations and guide the substantive material of the interviews, with their content and questions surrounding system processing of the BA, the characteristics of the Hartz Regime, and the perceived facts and norms of German political economy in 2015.

I. General Methodological Approach: Models of Science and the Extended Case Method

The debates over quantitative and qualitative methods characterising political science (King et. al., 1994; Brady et. al., 2004), as well as selection bias in case selection and causal analysis (Collier and Mahoney, 1996) are remote concerns when conducting an exploratory empirical study on social justice. As highlighted when discussing the reification fallacy of the social investment paradigm (Honneth, 2008; Hemerijck, 2013), quantitative approaches require accepting the standardised measures and reified suppositions laid out by normative projects like the Hartz Regime. Reification disallows critical inquiry into the lived experience of participants in both system and lifeworld because it assumes an ontological origin of behaviour. However, systematically collected measurements, followed by standardised categorisation for generating causal inferences, provide a method to predict outcomes of policy changes and improve the function of existing systems. Although this data is insufficient for determining parity of participation between action orientations and positions in the social structure, it does provide evidence of how the existing system classifies and processes human action. We must

therefore conduct exploratory qualitative research supplemented and triangulated by existing studies, as well as labour market statistics provided by the BA. How do we then conduct a qualitative study of the German Hartz Regime?

I.A – Methodology and Models of Science

The occasionally strident debate about whether the natural sciences are a legitimate model of social scientific inquiry (King et. al. 1994; Laitin, 2003; Flyvbjerg, 2004) offers a point of departure. As already indicated, the dichotomy between positivist and interpretivist epistemology links with Habermas's (1984a; 1988) conception of social science and communicative action generally – forming the basic epistemic framework for thinking about social justice in this thesis. In this context, the importance of norm-based communicative action in the lifeworld seemingly validates Flyvbjerg's (2004) focus on fine-grained case studies, driven by phronetic judgment during field research in "which instrumental rationality is balanced by value-rationality" (Flyvbjerg, 2004:400). However, in the context of studying social justice, we cannot perform phronetic ethnographic inquiry because *the epistemic framework which justifies the theory of social justice must also guide the categorisation of empirical knowledge*. To demonstrate why, I will briefly examine two competing models of science, highlighting the shortcomings of the positivist approach and the phronetic approach, subsequently justifying Burawoy's (1998) model of reflexive science. Reflexive science and its attendant ECM could be understood as a compromise between these two – with the added capacity for critical analysis.

I.A.1 – Positivism or Phronesis?

As positivists, King et. al. (1994) are standard bearers of applying statistical methods to qualitative research. They make the following definition of science and the relationship between descriptive and causal inference:

“Even if explanation – connecting causes and effects – is the ultimate goal, description has a central role in all explanation, and it is fundamentally important in and of itself. It is not description versus explanation that distinguishes scientific research from other research; it is whether systematic inference is conducted according to valid procedures” (King et. al., 1994:34).

The key term in this definition is ‘valid.’ Because validity is an epistemological concept, if we accept King et. al.’s (1994:Ch. 1) definition of appropriate theories for social scientific research, that it first and foremost must be *falsifiable*, then a positivist approach leads to a paradox. To illustrate this paradox, I will use a thought experiment which ultimately suggests that falsification as a criterion of validity is not acceptable for empirically studying social justice.

Although in dispute, let us say the effectiveness of the Hartz Regime (independent variable) in reducing unemployment (dependent variable) is rather strong. We can thus infer that the Hartz Regime is a successful and effective set of institutions if understood on its own terms. However, to illustrate in a perhaps irreverent manner, under this mode of reasoning, a state may also systematically exterminate a particular ethnic category that is conventionally understood to overlap with the category of ‘long-term unemployed’. If the question of reducing unemployment rates is considered “important’ in the real world” (King, et. al., 1994:15), then this state’s policies could be scientifically verified as more cost effective than a welfare state with active social policy. Thus, utilising common definitions of unemployment, costs, and a non-normative definition of ‘effectiveness’, or ‘performance’, we could simply add another independent variable ‘ethnic category’ with a policy throughput ‘extermination’ to generate a

falsifiable hypothesis: ‘extermination of X ethnic category is the most cost effective policy for reducing unemployment.’ If implemented, this could very well be scientifically valid until falsified by another approach. Considering genocide and minority-blaming in economic crisis is common in human history, why is the effectiveness of exterminating minorities for reducing unemployment accompanied by a large body of research testing its various manifestations? Quite simply because it’s morally outrageous, thus normatively constraining the scope of research questions and design. Positivists themselves are certainly aware of this and of course do not advocate genocide as an acceptable policy. However, acceptable moral standards become less clear when discussing welfare state policies, premised as they are on rights and responsibilities. In a context like welfare policy, in which norms themselves are disputed, and thus the *normative validity* of “valid social knowledge” (Laitin, 2003:170) is disputed, non-engagement with social norms in research design shifts from a technique of generating inferences into political tactic supporting the status quo. But this sounds familiar.

Both Horkheimer (1972) and Habermas (1988) argue that scientific research is embedded within the social situation of the times and the communicative practices of the scientific community. Yet, when generating principles for the proper design of qualitative research, King et. al. (1994), as well as King and Neff-Powell (2008) in the superciliously titled piece ‘How Not to Lie Without Statistics’, fall precisely into the trap Horkheimer (1972) warned against: removing all normative considerations from empirical observation. Horkheimer points to the moral necessity that social scientists are not merely solving puzzles for an existing socio-economic system organised by a transient set of norms, but also progressing those norms to an ever more enlightened, just, and emancipated condition. Whilst Critical Theory after Habermas highlights the importance of free inquiry and linking together science, art, and normative philosophy in the communicative practices of the scientific

community (Habermas, 1987b:115), the general thrust of applying quantitative techniques to all social research based on the principle of falsification fails to do so.

With the conventions of the scientific community thus deserving critical engagement in normative terms, what about the empirical context the researcher is studying? King et. al. (1994) effectively argue we must consider the methodological procedure for generating descriptive inferences as analytically primary to the epistemic framework which justifies any theory. By considering methodological procedure key in the collection of *valid facts*, the empirical researcher is forced into proceeding *as if* the language and measures empirically present are themselves more validly *true* than theorised principles of social justice. In short, the insistence on valid procedure immediately invalidates any theory of social justice as it can be ‘falsified’ by the ‘injustice’ of empirical facts. This leads to a paradoxical situation in which the only valid theory of social justice for Germany in 2015 is the one which exactly corresponds to the Hartz Regime. In short, we cannot rely on a positivist-inspired methodological approach because it effectively considers potential injustice as empirical facts. To overcome this problem, we must, to a certain extent, *transcend* the here and now to move the emancipatory intent of social justice forward. This problem with positivist approaches points to the problem with phronetic social science as well.

Phronesis is a term originally used by Aristotle to signify practical knowledge or judgment, but reinterpreted by Bent Flyvbjerg into a methodology for social scientific research (Flyvbjerg, 2001). As a methodology, phronetic social science entails a focus on the relationship between what he terms ‘value rationality’ and power through extensive case studies of political praxis. During such a study, the researcher gains sufficient experience with the content of values, power relations, and everyday practices of the fieldsite to obtain a category of knowledge best described by *phronesis*, thus aligning the researcher’s practical judgment about what is relevant information with the research subjects, effectively becoming

part of the praxis being studied. According to Flyvbjerg (2004:407) “Phronetic political scientists realize that as researchers their sociality and history is the only foundation they have, the only solid ground under their feet; and that this sociohistorical foundation is fully adequate for their work as political scientists.” Because this foundation “is not based on idiosyncratic morality or personal preferences, but on a common view among a specific reference group to which the political scientists refer” (Flyvbjerg, 2004:407), it suggests that the ‘folk’ concept of justice prevalent in the lifeworld of a given reference group is actually valid for describing that lifeworld in terms of social justice. But can we assume that individual groups have *valid* knowledge about justice? No, we cannot. We can only assume they have *some kind of knowledge* which forms the basis of their own reasoning. Likewise, we cannot assume that the normative socialisation of any social researcher is adequate either as this again relies on a potentially unjust historical context which must be transcended. We thus encounter the same basic problem: how can we link a theory of justice rooted in an epistemic framework with the everyday epistemic frames governing knowledge in the Hartz Regime? We must not aim to eliminate bias, but to reconcile two epistemic frameworks – the immanent and the transcendent, or folk and scientific.

I.A.2 – Critical Interpretation

Although Flyvbjerg (2001:89-98) makes a convincing argument against Habermas’s turn to discourse ethics as the basis for democracy, he does not engage with his earlier works central for the epistemic framework developed in this thesis. As shown in chapter three, communicative action entails not only debate in scientific journals after deduction and testing on unknown subjects, nor mutually identifying the general good according ethical phronesis guiding researchers’ interaction with subjects, but an evolutionary trait of human brains, forming the basis for all knowledge. Because we have previously defined communicative

action in two categories: normative reasoning which defines the lifeworld, and instrumental reasoning which governs the system, simply identifying which form of communicative action is employed is also central to understanding.

Therefore, because any empirical study of social justice must also transcend description in favour of evaluation, we must be explicit in allowing the epistemic framework which defines the epistemological context of social justice to also define the interpretation of knowledge generated in an empirical context. The system-lifeworld distinction based on forms of reason very much allows for this. For instance, the BA offers fine grained statistics which are detailed records of particular individual and household characteristics, defined distinctions between gender and age, and instrumental measures taken in a given micro-context with pre-defined categories as the output of these measures (such as type of employment). Although perhaps experienced as ‘the real world’ by those who subscribe to the linguistic categories of the BA, these statistics must be understood *not* as observations of reality, but systematic representations of reality generated for an instrumental purpose. At the same time, an individual research participant interacting with the BA, understood as an embodied representative of those statistical definitions, may not actually share this definition of the situation, but also may not share the definition of their ‘real world’ in terms of system and lifeworld.

Therefore, all information in Part II of this thesis is an act of interpretation of data contained in the categories of system and lifeworld as specifically delineated in chapter three. The ‘raw data’ of this study is communicative action classified by one of two forms of reasoning. I will demonstrate how I classify this by simply citing the speech acts themselves – which does not take an ethical stand as an act of phronetic judgment, nor does it follow conventional scientific procedures. It simply takes what has been said and shows which form of reasoning is prevalent. In short, the qualitative interpretation conducted in this study is an

exercise in basic *critical thinking* – recording speech acts and assessing them in second-order categories rather than taking them at face value.

The problem with this approach is how to create or observe a context in which the system elements of the Hartz Regime, the various social positions, and the three action orientations are ‘communicating’. In short, how do we create a *dialogue* between the *perspective* on social justice developed in the previous chapters and the perspectives contained within the Hartz Regime, subsequently interpreting this dialogue in terms of normative or instrumental reasoning and assessing it in terms of parity of participation? To answer this question, I will maintain that the basic model of Burawoy’s *reflexive science* supplemented by the importance of *perspective* (Cramer-Walsh, 2004) in how individuals communicate is a fruitful way forward.

I.B – Reflexive Science and Perspective

Burawoy’s reflexive science offers an approach which “starts out from a stock of academic theory on the one side and existent folk theory or indigenous narratives on the other” (Burawoy, 1998:7). Yet, instead of “adhering to a set of data collecting procedures that assure our distance” (Burawoy, 1998:5), it calls for researchers to root themselves

“in theory that guides dialogue with participants... rejecting a positivist objectivity based on ‘sense data’ in favour of a commitment to the ‘rationality’ of a theory – cognitive maps through which we apprehend the world. This ‘dwelling in’ theory is at the basis of [sic] reflexive science – a model of science that embraces not detachment but engagement as the road to science” (*Ibid.*).

This means that we must engage with individuals who are actually living in the Hartz Regime, assess their perspectives, and relate those perspectives to each other based on which kind of reasoning is prevalent in a given context.

In general, this methodological approach is common in sociology but also increasingly common in political science, particularly in the works of Joe Soss's (2000) study of welfare claimants in the United States, Cramer-Walsh's (2004) work on everyday communication among US citizens, as well as Jessica Allina-Pisano's (2008) study of the post-Soviet transition among rural communities in Ukraine. This approach would thus be considered ethnographic in its participant-observation dynamic – although scarcely doing justice to the term ethnography which contains some far more immersive studies (Scott, 1985; Vitebsky, 2005). Ethnographies are focused on identifying emergent observations and concepts in social research – a suitable fit for this project. It is therefore a qualitative case study which aspires to *emergent* knowledge of social justice and labour market institutions.

In the design and execution of this project, despite my earlier criticism of King et. al. (1994), the study follows a more systematic approach to data collection than usually associated with ethnographic methods. This is due to the overarching goal of providing a theory of social justice suitable across cases through emergent knowledge generated from studying the German case. As Small (2009:24) points out, “a well-executed single-case study can justifiably state that a particular process, phenomenon, mechanism, tendency, type, relationship, dynamic, or practice exists... This, in fact, remains one of the advantages of ethnographic work, the possibility of truly emergent knowledge.” I therefore conjecture in the final chapter some of the original findings derived from studying the Hartz Regime are applicable across cases.

In practical terms, the method aims to create a dialogue between various *perspectives* which could represent or communicate on behalf of the system of the Hartz Regime, the various social positions, *but also the pre-defined action orientations when confronting that system and*

lifeworld. The definition of perspective is derived from Kathleen Cramer-Walsh (2004) yet operationalised for methodological purposes. To specify, Cramer-Walsh argues:

“A variety of bodies of research suggest that the perspectives people use to make sense of public affairs are rooted in social identities developed through social interaction. Moreover, they suggest that differences in political interpretation across members of society arise from social interaction among people of specific social locations. By social location, I mean individuals’ position in society with respect to characteristics that signify relative status, such as race, gender, and class” (Cramer-Walsh, 2004:26).

This conception rests on the assumption that social position, defined here by source of subsistence and the logic of social differentiation of labour markets, aligns with a perspective akin to identity. This does not mean that I define identity as class, but define one element of perspective as emerging from class position – with racial or gender identity latent in the action orientations rather than social position. Seeking out research participants from these social positions thus allows for interpreting and delineating perspectives on the facts and norms of the lifeworld, as well as the logic of the system, shaped by the logic of social differentiation in the system – thus exploring the second set of hypothesis in Table 4.1.

In summation, to answer the question if the Hartz Regime is socially just, methodologically, the collection and categorisation of observations from empirical research was conducted through the lens of the epistemic framework developed in chapter three, and directed towards the specific theoretical categories developed in the cognitive map of descriptive hypotheses in chapter four. I explicitly attempted to develop a dialogue between various perspectives – specifically 1) the action orientations of marketisation, social protection, and emancipation; 2) the *system* of the Hartz Regime itself; and 3) the various social positions engaged in labour markets – the employer, the worker, and the unemployed. More specifically

for the following chapters, I proceed by focusing on the form of reasoning communicated when facing an action orientation, and whether this varied according to action orientation or social position in identifiable patterns. If an identifiable pattern is manifest, then we have made an empirical finding explicitly within the same epistemic framework of the theory.

II. The Extended Case Method

With the methodology highlighted and justified, I will now turn to the method which corresponds to the model of reflexive science defined by Burawoy (1998). I followed Burawoy's ECM rather closely – particularly its four steps which are executed in the next three chapters of the thesis: intervention and process (Chapter 6), process and structuration (Chapter 7), and reconstruction (Chapter 8).

Although Burawoy's (1998:14) conception of *intervention* seems to cross the ethical line of the researcher participating directly in life-altering events for the subject of study, by restricting this to communication with participants, it fits well with the principle of *communicative practice* as a form of participation. Its most basic form is the interview. Therefore, interviews were conducted with actual participants who represented perspectives of the different categories of the Hartz Regime as outlined in the theory and matrix of hypotheses. Burawoy calls this 'extending the observer to the participant' through attempting to induce research subjects to think and communicate with me terms of the theory, rather than passively observing their own perspectives. Before detailing the specific mechanics of the interviews, I will briefly outline the remainder of the ECM as conducted in this thesis.

In order to decipher how the question and response dynamic is creating observations with implications for the theory, we must take "multiple readings of a single case and [aggregate] them into social processes" (Burawoy, 1998:15). This transforms what Burawoy

calls *situational knowledge* – obtained during the interview – into knowledge about the *social process*. As detailed below, the process portion of this research project was conducted in sequential phases which began at the symbolic headquarters of the BA, increasingly radiating outward until the BA itself receded from view and the experience of the German labour market under the Hartz Regime came into focus. Starting with those authoring and refining the system in preliminary (and unfortunately unrecorded) interviews, I followed Small's (2009) notion of case selection for sequential interviews in which each subsequent interview "provides an increasingly accurate understanding of the question at hand... [until] the very last case examined will provide little new or surprising information" (Small, 2009:25). By the end of the interview process, the collection of micro-data furnished by the BA became more focused, as well as granting a deeper understanding of what this data meant in terms of the theory.

However, because the subject and the researcher, as well as the timing and place of the interview are not in a vacuum void of external pressures and power relations, they must be placed in a wider context. Burawoy calls this step of the ECM *structuration*, where the data from the interview itself, as well as microdata of given locales is compared with previously observed information to reconnect the emergent knowledge garnered from the interview with the wider knowledge other scholars have already identified.

"We therefore move beyond *social processes to delineate the social forces* that impress themselves on the ethnographic locale. These social forces are the effects of other social processes that for the most part lie outside the realm of investigation. Viewed as external to the observer these social forces can be studied with positive methods that become the handmaidens of reflexive science" (Burawoy 1998:15).

Elucidated in chapter seven below, this step involved placing observation from field research into wider regional, German, and European trends in the political economy. Drawing from larger statistical datasets and outside sources, this step in the ECM allows for making the claim

that the research generated by a single case study of the German Hartz Regime in 2015 offers a theoretical framework for use across cases in CPE.

The final step of the ECM is theory reconstruction. In this step, I re-engage with theoretical debate on social justice, CPE, and the SIP, reflecting on the observations made from field research. Finding the action orientations as somewhat inadequate for capturing the experience of social (in)justice for labour markets, I reconstructed the theory with a stronger focus on class and the logic of social differentiation driving asymmetric types of reasoning applied to action orientations and particularly social class. The reconstruction is presented as a research programme for CPE in the final section of Chapter 8.

III. Specific Field Research Methods

With methodology and method now justified and described, the following will detail the case selection, fieldsite selection, and how the interviews themselves were conducted. To reiterate and simplify the specific questions above, we can ask: 1) what, where, and particularly who in Germany should one study the Hartz Regime a) as a system of labour allocation between unemployed dependents, workers, capital, and rentiers, and b) the perspectives of that system and those social positions; 2) How can we make the action orientations of marketisation, social protection, and emancipation manifest in an empirical context?

III.A – What, Who, and Where?

The first question ‘what to study’ is rather clear when examining the German labour market in terms of the Hartz Regime. If we recall, an important element of the Hartz Reforms – despite the attention Hartz IV received in the public and popular discourse – is the deceptively minor bureaucratic consolidation of the Federal Employment Agency: the BA. As *both* welfare

and unemployment insurance are distributed by procedures emanating from the headquarters of this single agency, it seemed entirely fitting to study it. I therefore began at the Institute for Labour Market Research (*Institut für Arbeits- und Berufsforschung – IAB*), which is the independent research arm of the BA located in Nuremberg. In this locale, instead of collecting a series of expert interviews, I conducted preliminary field research through some unrecorded interviews with key personnel, attempting to navigate gatekeepers and recruit participants for more ‘on-the-ground’ field research at regional fieldsites. This follows the spirit of the ECM far more scrupulously than expert interviews, and likewise allows for observing communicative action in everyday practice from the lived experience not of analysts collecting and presenting statistics at a given headquarters, but among the Agency offices and Jobcenters scattered throughout Germany. I then entered the field for approximately six months.

Who to recruit and interview was more difficult. Considering the shift to active social policy is accompanied by an extensive increase in personnel and represented as such in quantitative analysis (Rueda, 2014), I decided to focus first on Jobcenter personnel at the front line of the system: case managers. Although there are several different types of case managers, in this study, they will all be referred to as *Arbeitsvermittlern* (AVs), usually translated as work placement officers, to maintain confidentiality. For unemployed individuals interacting with the BA, talks with AVs at local Jobcenters are effectively talks with the everyday face of the Hartz Regime. Their knowledge about local labour market conditions, the nature of interaction with multifarious clients, and their knowledge of the system working out in practice is unparalleled. AVs thus became my primary research group, with 22 total interviews made.

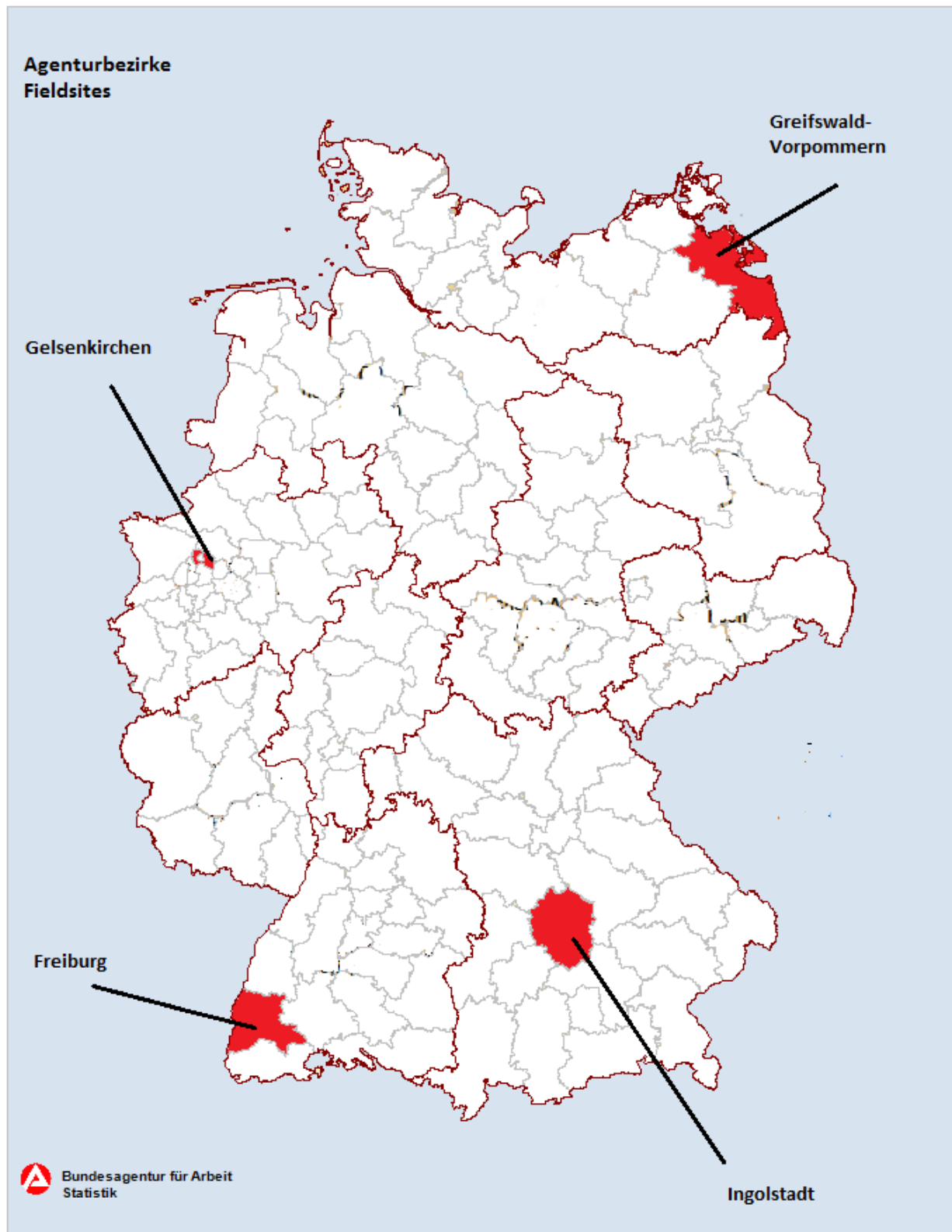
Following this phase, I then branched out to the traditional partners of German corporatism to interview perspectives of employers and the already employed. Focusing on union representatives, employer’s associations, and actual employers, I encountered significant recruitment difficulties due to disinterest or hostility to participating in a project with the

suspicious terms ‘social justice’ and ‘labour markets’ in the title. Nevertheless, I managed to recruit 7 interviews in this category – with supplementary data provided by public statements of these organisations. Barred from any direct participation with BA officials or AVs at Jobcenters by gatekeeper agreements, I unsurprisingly encountered difficulties recruiting unemployed individuals as well, often resorting to handing out flyers in front of various Jobcenters. Nevertheless, I managed to recruit 6 unemployed individuals – supplementing this data with some qualitative research conducted by the IAB in Nuremberg. Therefore, in terms of the social positions, I conducted 13 interviews.

With research groups selected, the question of where in Germany to recruit arose. Instead of engaging with the representative mean of German labour market, finding the borders of experience better satisfies the universality requirement demanded by any theory of justice – as the mean may be found just according to the theory, but the system nevertheless remains unjust if the margins are not – as well as the most resonant range of possible experiences (Promberger et. al., 2002). Moreover, this conforms to the principle of finding deviant cases for contrasting with fitting cases in qualitative research (Silverman, 2010:146). I thus focused on the most divergent cases of the German experience possible. These cases were selected as regional-level BA districts (*Agenturbezirke*) to avoid being too specific to protect the identity of interview participants, and without being too general to prevent detailed examination of local labour market conditions. Political culture, historical development, and unemployment rates were used as standards for selection. The cases selected were the following with some comparative statistics detailed in the Graphs below: 1) Ingolstadt, headquarters of industrial giant Audi, politically conservative, and one of the wealthiest and in fact, at the time of this study in early 2015, the *lowest* unemployment rate of all districts in Germany; 2) Freiburg, a university city with low unemployment, a high quality of life, and a distinct political culture heavily influenced by the Greens; 3) Gelsenkirchen, a deindustrialising working-class, social

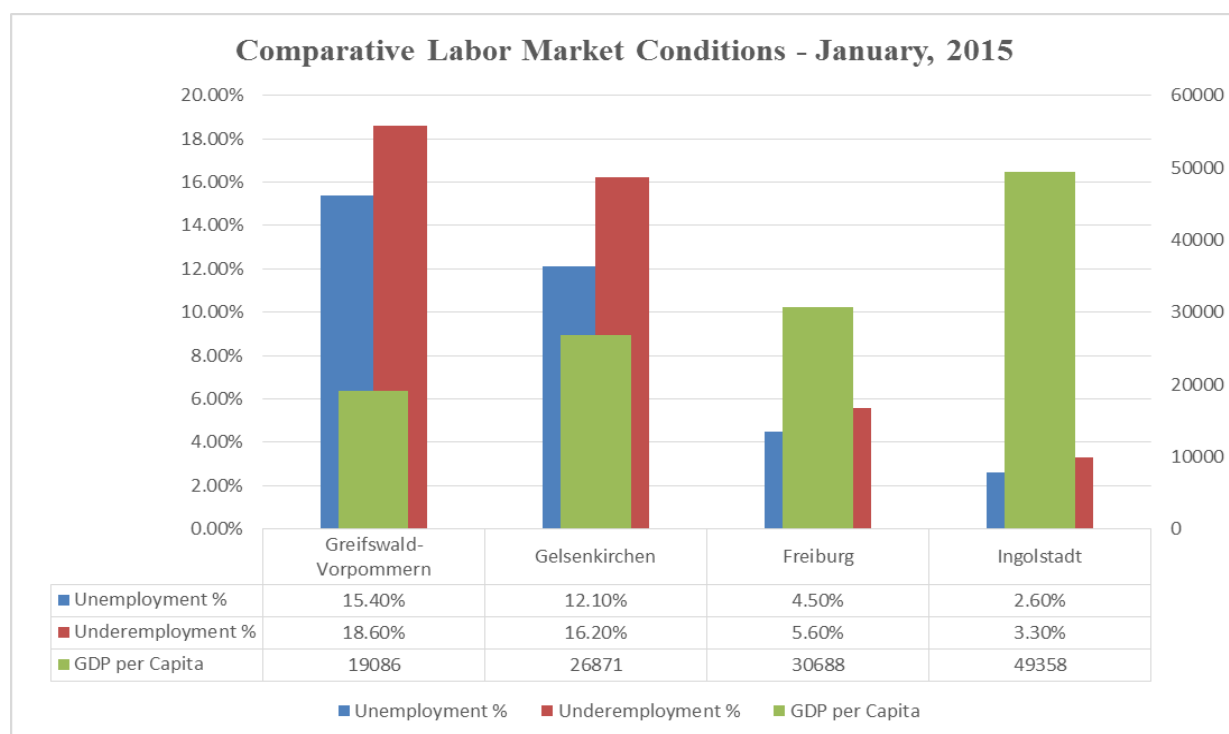
democratic city in the heart of the German heavy industry belt known as the Ruhr; 4) Greifswald-Vorpommern, a long-deindustrialised and currently depopulating rural area in the East, with a small university and one of the highest unemployment rates of all districts in Germany, as well as also possessing a political culture typical of the former GDR with an added element of right-wing extremism. I thus interviewed 5 to 6 AVs in each of these regions, followed by as many perspectives from the various social positions possible to recruit.

Map 5.1 – Regional Agencies of BA Selected as Fieldsites¹²

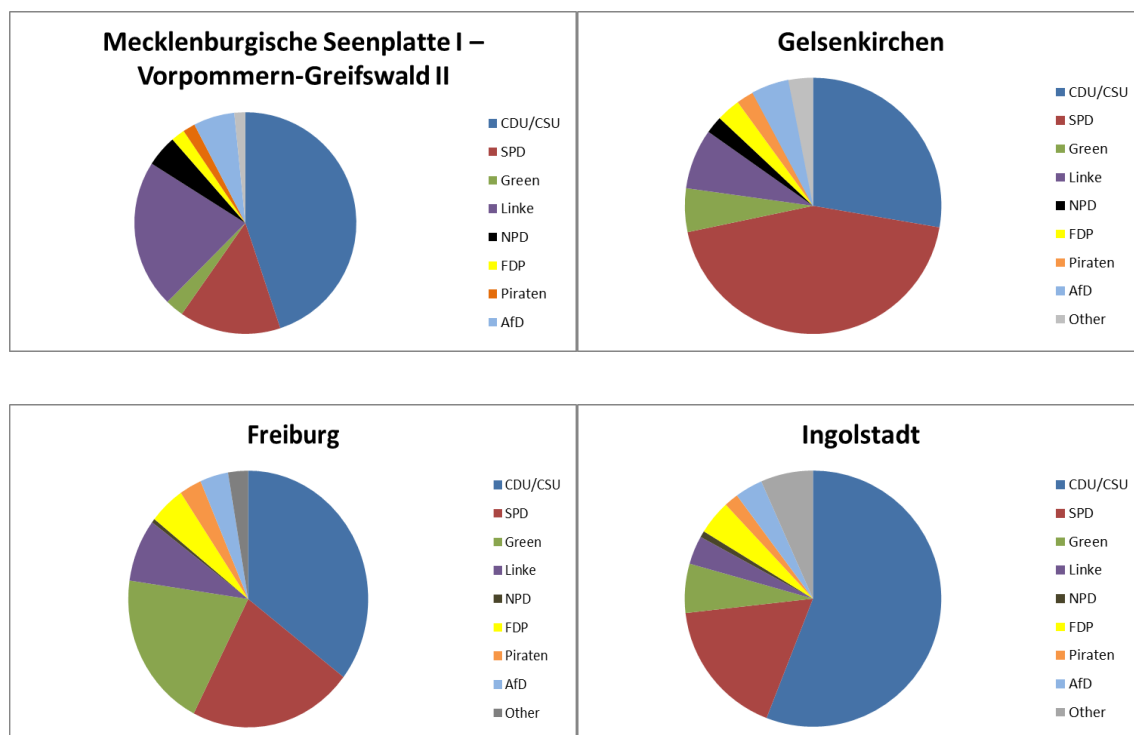


¹² Taken from <https://statistik.arbeitsagentur.de> [Accessed 7/2015] with author's coloration and revision.

Graph 5.1 Fieldsite Basic Labour Market Conditions¹³



Graph 5.2 Fieldsite Political Conditions (Federal Election, 2013)¹⁴



¹³ Taken from <https://statistik.arbeitsagentur.de> [Accessed 1/2015]

¹⁴ Taken from <https://www.bundeswahlleiter.de> [Accessed 1/2015]

III.B – How can we empirically manifest marketisation, social protection, and emancipation?

With the what (the BA), the whom (AVs, employer representatives, union representatives, and unemployed individuals), and the where (Ingolstadt, Freiburg, Gelsenkirchen, Greifswald-Vorpommern) delineated, the final question pertains to the content of the interviews. Instead of ambiguous questionnaires focused on the terminology of social justice, I utilised semi-fictitious vignettes to structure interviews – a technique offering both the capacity to represent the three action orientations of this study and significant flexibility to engage with multiple contexts. Vignettes are particularly effective when discussing diverse normative and instrumental reasoning with research subjects in various positions and locales of a social system (Wilks, 2004). They proved highly effective in controlling the context in which instrumental and normative reasoning was employed according to specific action orientations. In particular, I constructed vignettes around the concept of system participation and basic capabilities for those in the least favourable positions in the Hartz Regime – with unemployed individuals forming the core content of the vignettes. I thus constructed three vignettes, each representing a life history and expressed attitude which corresponded with the theorised action orientations of marketisation, social protection, and emancipation.

III.B.1 – Constructing Vignettes

Making vignettes an effective tool for the intervention phase, in terms of the action orientations, first requires that they are realistic (Wilks, 2004). Fortunately, focusing on the socialisation process of unemployed individuals, their interaction with the Hartz Regime as a system of labour allocation, as well as their experiences with the BA after the Hartz Reforms, was precisely the focus of a large qualitative study entitled Poverty Dynamics (*Armutsdynamik*) performed by the IAB and conducted between 2007-2012. In seven disparate regions of

Germany, over 100 researchers followed approximately 150 individuals, all of whom had been subjected to the Hartz IV system, in four waves of interviews – most lasting several hours – conducted largely on the research subjects’ own terms. Researchers often entered the homes of these individuals, providing detailed descriptions of their environments, their mannerisms, and most importantly, allowed those individuals to discuss their family histories, their life histories, and their own reflections on the topic of work and welfare transcribed in their own spoken language. Combing through this dataset, which formed the core of my preparatory fieldwork in Nuremberg, offered an ethnographic glimpse into the lives of people subjected to the Hartz Regime on an unmatched scale. Drawing from these transcripts rendered the vignettes both familiar and realistic to interview partners in this study. In precise terms, the content of the vignettes elaborated below is an amalgam of real individuals who participated in the IAB study, shaped and somewhat fictionalised by the theoretical categories highlighted in the epistemic framework of chapter three and the character of action orientations elaborated in chapter four.

At this point, it is important to note that when examining the backgrounds of unemployed individuals in Germany, most receive the basic welfare payment of Hartz IV – which is accompanied by significant social stigmatisation (Scherschel and Dörre, 2013:Ch. 8). When examining the life histories of Hartz IV recipients, one is immediately struck by the importance of capability enhancement at the most basic level. This suggests that the original capability approach (Sen and Nussbaum, 1993) is certainly valid in focusing on health, education, and basic needs. However, there is another aspect of capability enhancement immediately evident at the micro level: the dissonance between socialisation processes and the standardised norms of social inclusion. Despite access to the core functionings of the capability approach, with several individuals in the *Armutsdynamik* dataset appearing to have relatively stable living environments, access to healthcare, and even access to some degree of education, their socialisation suggests that the line between an effective functioning and the lack of it is

impossible to delineate systematically. The kernel of the problem is that individual socialisation generates perspectives which may or may not align with social norms in the German lifeworld. Therefore, contra the SIP's antipathy towards social 'repairing' of market-driven unemployment, advocating instead the 'preparing' a set of capabilities for market participation (Morel et. al., 2012b:354), the ground-level practitioners of active labour market policy, at least in Germany, are first confronted with 'repairing' a socialisation process into the lifeworld.

Although dysfunctional socialisation is a topic of child and social psychology, as well as sociology generally, after examining the *Armutsdynamik* data, some individual socialisation processes include a broken family, a fragmented consciousness unable to grasp their own contradictions, and a set of personal expectations confronting a system of allocating a different set of expectations. As is also suggested by Pissarides's (2011) model of matching frictions, a significant reason why unemployment exists is a mismatch between expectations. However, expectations are not simply bundles of capabilities embodied in a person and functional needs amalgamated into a single job, but a relationship between individuals with more or less capacity for communicating and delineating mutually agreeable expectations. Therefore, when focusing on the vignettes as expressions of action orientations, the socialisation process and individual experiences must align with the action orientation expressed by the vignette and *not necessarily with what would be considered realistic for the Hartz Regime as a system*. Indeed, the issue of 'realistic expectations' became a key reflexive question which emerged through empirical research: who determines what is a valid expectation? In short, in order to make vignettes realistic, they must express the unrealistic expectations which derive from complicated and often damaging socialisation processes. Consequently, *only by taking on a life of their own, with a perspective emerging from the socialisation process, could the vignettes become realistic*.

Drawing heavily from real individual experiences which aligned most closely with the basic theoretical principles of each action orientation, the vignettes structuring each interview are written in both the original German and English below, with the bolded and italicised portions in the English translations reflecting the action orientation. Each vignette is preluded by a brief discussion of how their stories correspond to common elements of German society, followed by an explanation of how their constructions reflect the action orientations.

III.B.2 – Marketisation

Although highly flexible and oriented towards maximising personal money accumulation, capturing the marketisation profile for an individual at the margins of society, after researching the IAB data, suggested a particular type of young person: a dysfunctional family history coupled with unrealistic expectations placed both on their personal ability within the market, and the economic value of a given task. Another element included lifestyle choices which in principle should not be a detriment to market participation but corresponds to the ideal of free consumer choice central to the market orientation. I thus included a penchant for piercings, tattoos, and heavy metal culture which exemplifies free individual expression unrelated to system performance. Of course, an individual with a market orientation faces precisely the type of unjust suppression of free expression a more conformist individual oriented towards social protection may find perfectly reasonable – as Fraser (2011) has pointed out. Finally, the complex sexuality of individuals was explored in this vignette as well, with Frau M. currently in a lesbian relationship with her roommate in a four-person shared flat – both receiving Hartz IV – yet also uncertain if she is homosexual. This constellation elicited how the BA defines and enforces expectations within its legal concept *Bedarfgemeinschaft* (community of need) – which legally defines the intimate relationships between individuals in the household to identify whether they are mutually reliant in a financial sense.

Frau M. ist 24 Jahre alt. Sie ist bei ihren Großeltern aufgewachsen, nachdem ihre Eltern sich scheiden ließen. Beide Elternteile fanden neue Partner, aber Frau M. fühlte sich nicht imstande, bei diesen „Quasi-Eltern“ zu leben. Obwohl beide Eltern ein gutes Einkommen hatten, erhielt Frau M. kaum finanzielle Unterstützung von ihnen. Die Eltern bekamen weitere Kinder, die für sie nun die ‚wirkliche Familie‘ waren.

Frau M is 24 years old. She was raised by her Grandparents after her parents divorced. Both parents found new partners, but Frau M was not able to live with these ‘Quasi-Parents’. Although both parents had good incomes, Frau M received little financial support from them. Her parents had more children, and these eventually became their ‘real family’.

*Frau M. besuchte ein Gymnasium und machte ein unterdurchschnittliches Abitur. Sie interessierte sich während dieser Zeit für Heavy-Metal-Kultur und hat sich in der Folge viele Piercings und Tattoos zugelegt. **Danach schrieb sie sich an der Uni für Betriebswirtschaft ein, in der Hoffnung, später ihren eigenen Musikshop zu gründen und irgendwann viel Geld zu verdienen.***

Frau M. entered a Gymnasium and graduated with below average marks. During this time, she became interested in Heavy-Metal Culture, and subsequently had many piercings and tattoos put on. Afterwards, she registered at a university to study business administration, with the hope that later should could found her own Music Shop and eventually earn a lot of money.

Kurz nach ihrer Einschreibung starb ihr Großvater. Nun wurde sie zu Hause benötigt, um ihre Großmutter emotional zu unterstützen und ihr mit dem Nachlass

des Großvaters zu helfen. Weil sie wegen ihrer familiären Verpflichtungen in dieser Zeit an der Universität viele Kurse versäumte, wurde sie exmatrikuliert. Diese Behandlung durch die Uni empfindet sie als unfair.

Shortly after her enrolment, her Grandfather died. She was then needed at home, to emotionally support her Grandmother and help her with the legal estate of her Grandfather. Because of her family responsibilities at this time, she failed many courses at the university, eventually leading to her ex-matriculation. She found this treatment by the university to be unfair.

In ihrem Heimatort begann sie nun für eine Bäckerei zu arbeiten, was ihr aber zu schwer und zu früh und zu schlecht bezahlt war. Anschließend arbeitete sie als Verkäuferin in einem Bekleidungsgeschäft. Diese Arbeit war zwar ebenfalls schlecht bezahlt, aber die Arbeit war leicht und der Laden hatte nicht viele Kunden. Schließlich zog sie bei ihrer Großmutter aus und in eine Vierer-Wohngemeinschaft. Kurz darauf verliebte sie sich überraschend in eine arbeitslose Mitbewohnerin. Beide blieben aber in der WG, um sich nah, aber auch gleichzeitig unabhängig voneinander zu sein. Außerdem ist Frau M. sich noch immer nicht so sicher, ob sie wirklich lesbisch ist. Das Bekleidungsgeschäft meldete 6 Monate später Insolvenz an, und alle Beschäftigten verloren ihre Arbeit. Nun sucht sie einen ähnlichen Job, aber es gibt nicht viele Möglichkeiten für sie. ALG I bekommt sie nicht, weil ihr vorheriger Lohn zu niedrig war, so dass sie jetzt wie ihre Mitbewohnerin und Partnerin auch ALG II bekommt.

In her hometown, she began to work for a Bakery, but it was too difficult, started too early, and was paid badly. Following this, she worked as a clerk in a clothing store. This work was also badly paid, but the work was easy and the store did not have many customers. Subsequently, she moved out of her Grandmother's place

and into a 4-person shared flat. Shortly thereafter, she surprisingly fell in love with her unemployed female roommate. Both stayed in the flat to be close, but at the same time remain independent from each other. Besides, Frau M is still not so sure that she is really a lesbian. The clothing store became insolvent 6 months later, and all the workers lost their jobs. Now she is looking for a similar job, but there are not so many possibilities for her. She did not receive unemployment insurance payments because her earlier wage was too low – meaning that now she receives basic welfare (Hartz IV) like her roommate and partner.

Sie möchte wieder arbeiten, kann aber nicht nachvollziehen, warum manche Leute für genau so viel Geld im Monat arbeiten gehen, wie sie im ALG II bekämen. Daher findet sie Minijobs absurd: Wenn sie in einem angebotenen Job gleich oder weniger verdienen würde, als sie im ALG II ohne Arbeit erhält, dann würde sie es vorziehen, im ALG II-Bezug zu bleiben und sich selbst einen "echten" Job zu suchen. Ihr Traum ist noch immer, ihr eigenes Geschäft zu gründen, aber es bleibt ein Traum. Was sie jetzt möchte, ist vor allem mehr Geld, eine größere Wohnung, ein Auto und viel Urlaub, egal woher und wie.

She would like to work again, but cannot comprehend why some people go to work for exactly the same amount of money that basic welfare pays. She thus finds workfare absurd: If she earns the same or less money from working some job offered by the Jobcenter as not working and receiving basic welfare, then she would prefer to remain on basic welfare and find herself a ‘real’ job. Her dream is still as always, starting her own business, but it remains a dream. What she would like now is first of all more money, a bigger flat, a car and many holidays, regardless of where or how.

Frau M. would like to open a music shop and make lots of money – perhaps without realising these goals may be mutually exclusive. She also cannot understand why anyone would work when welfare pays just as much – a perfectly rational calculation of opportunity cost in other welfare systems (Soss, 2000:49). Likewise, averse to early morning work at low-paid bakeries, Frau M. is oriented towards maximising accumulation with minimum personal investment – both instrumentally rational assessments for the marketisation profile. However, she has several longer-term investment options which may not be in her immediately perceived self-interest. Considering she has graduated with the degree required to enter German universities, the highest qualification in its three-track education system, she has the option to both re-enter university, as well as enter vocational training to receive a vocational certificate (*Ausbildung*). This presents a calculable course of future action presuming she finishes the training and finds a fitting job – yet the highly regulated character of these specialised skills suggests that the marketisation orientation fades from view as coordination between education systems, firms, unions, and the state channel individuals into specified socio-economic roles (Streeck, 1997) and a more socially-protective orientation.

III.B.3 – Social Protection

This vignette reflects a common lifecourse in German society in 2015, particularly in the East, with one AV interviewee using the term *Wendeverlieher* which means ‘loser of the *Wende*’ when describing the vignette. The term ‘*Die Wende*’ means simply ‘the Turn’ but in context is a specifically East German term which describes the immense socio-economic changes in East German society accompanying reunification. Nevertheless, as it was constructed from the IAB data with the story widespread for those in their late 50s and early 60s, it could apply almost anywhere in a deindustrialising social landscape – which was common throughout Germany in the 1990s. It thus captures precisely what Streeck (2009,

2014) repeatedly alludes to in his historical narrative of ‘re-forming capitalism’: the elimination of social protective institutions such as *Sozialhilfe* whilst simultaneously deregulating and activating individuals into highly unstable labour relations such as call centres.

Frau S. ist 63 Jahre alt. Sie hat Werkstoffwissenschaft an der Universität studiert und mit Diplom abgeschlossen. Anschließend hat sie 25 Jahre in einem Industriebetrieb gearbeitet, wo sie eine leitende Position mit Kompetenzen für die Produktion von Haushaltswaren innehatte. Sie verliebte sich in einen Kollegen aus dem Betrieb, den sie heiratete und mit dem sie zwei inzwischen erwachsene Kinder hat. Diese sind heute 30 und 33, und Frau S. hat bereits eine kleine Enkelin.

Frau S. is 63 years old. She studied Materials Science at University and finished with a Diplom. Subsequently, she worked for 25 years in an Industrial firm, where she held a managerial position with authority over the production of household goods. She fell in love with a colleague in the firm, they married and had two children whom are now adults. They are today 30 and 33, and Frau S. already has a small grandchild.

Beide Ehepartner haben 25 Jahre ununterbrochen bei dem Haushaltswarenhersteller gearbeitet und Frau S. war eine loyale und leistungsfähige Arbeitnehmerin, die in ihrer Berufstätigkeit aufging. In den frühen 90er Jahren verdiente sie 2500 Euro netto pro Monat (umgerechnet). In den frühen 90er, wurde die Firma von einer Investmentgesellschaft übernommen. Nach einem massiven Personalabbau wurde die Produktion

schließlich gänzlich ins Ausland verlagert. Während dieser Zeit schloß Frau S. vier Änderungsverträge mit ihrem Arbeitgeber, bis sie schließlich nach der Liquidierung der Firma im Jahr 1999 ohne Abfindung arbeitslos wurde.

Both partners worked 25 years without interruption for the household goods manufacturer, with Frau S. a loyal and efficient worker in her profession. By the early 1990s, she earned the equivalent of 2,500 euros net per month. In the early 1990s, the firm was taken over by an investment firm. After a massive layoff, the production facilities were closed and relocated abroad. During this time, Frau S. signed off on 4 different revised contracts with her employer, until the firm was liquidated in 1999 when she ultimately became unemployed without a severance package.

Für eineinhalb Jahre bezogen sie und ihr Ehemann Arbeitslosengeld. Ihr Mann fand dann eine neue Anstellung, während sie weiter erfolglos nach einer Beschäftigung suchte und unfreiwillig zu Hause bleiben musste. Diese Situation stellte für Frau S. eine große psychische Belastung dar, was schließlich, nachdem die Kinder ausgezogen waren, zur Scheidung der Ehe führte. Frau S. bezog eine eigene kleine Wohnung in der Nachbarschaft und bezog weiterhin Arbeitslosenhilfe.

For 18 months, she and her husband received unemployment compensation. Her husband then found a new position, while she continued unsuccessfully to look for a job, resulting in her involuntarily staying at home (with the children). This situation created significant psychological stress, ultimately leading to a

separation from her husband after the children moved out. Frau S. moved to her own small flat in the neighbourhood and continued obtaining long-term unemployment compensation.

Nach der Zusammenlegung zum SGB II bekam sie immer wieder Wiedereingliederungsmaßnahmen angeboten, die sie wahrnahm, um Sanktionen zu vermeiden. Allerdings erhielt sie darüber nie Chancen auf eine reguläre Vollzeitstelle. Einmal nahm sie auf Drängen ihres Arbeitsvermittlers eine Arbeit in einem Call-Center auf. Statt der angekündigten 8 Euro Stundenlohn erhielt sie dort, nach zwei Tagen unbezahlter Probearbeit, nur 6 Euro pro Stunde. Obwohl der Job außerdem anstrengend war, hat Frau S. dort weitere drei Monate gearbeitet. Jetzt ist sie seit mehr als einem Jahr wieder arbeitslos.

After the consolidation into basic welfare (Hartz Reform reducing unemployment compensation to basic welfare), she was repeatedly offered re-integration measures that she perceived necessary to follow in order to avoid sanctions. However, she received no chances for a regular full-time position. One time she took a job in a call centre after pressure from her work placement officer at the Jobcenter. Instead of the advertised 8 Euros per hour she would receive, after 2 days of unpaid trial work, she received only 6 Euros per hour. Although the job was also stressful, Frau S worked there for a further 3 Months. Now she has been unemployed again for over one year.

Sie ist deprimiert und resigniert und hat sich weitgehend zurückgezogen. Nach außen hin lässt sie sich aber wenig anmerken: Sie trägt alte, aber saubere

Kleidung und bewegt sich mit Anmut. Frau S. findet, dass sie zu Unrecht in Hartz IV gelandet ist: Es sei nicht ihre Schuld gewesen, das Leben habe ihr schlicht übel mitgespielt. Zudem ist sie davon überzeugt, eine bessere Rente zu verdienen, als sie ihr nach dem SGB II zusteht – eine Rente, die sich an ihrem früheren Vollzeitjob orientiert und ihrer Ausbildung und Leistungsbereitschaft entspricht.

She is depressed and resigned and has largely withdrawn. Her outward impression is a bit noteworthy: she dresses in old but clean clothing and moves with grace. Frau S finds it unjust that she is now on Hartz IV. It has not been her fault that life has given her a raw deal. Consequently, she would be satisfied with being paid a better pension than is indicated by the Social Code II – a pension which reflects her earlier full-time job, her education, and her previous earnings.

Although adhering to the norms of industrial society, obtaining an education, a partner, and a steady job in a factory, followed by years of loyal service, she was betrayed by a firm seeking acquisitions abroad, restructuring, and subsequent financial manoeuvres to avoid severance responsibilities – usually termed ‘globalisation’. Frau S’s orientation is ultimately towards a fair pension above what is defined for the long-term unemployed in their late 50s and early 60s. This corresponds to the reciprocal elements of social protection – in which her living standard should be maintained because she spent 25 years adhering to the expectations of industrial society, only to be cast aside due to the forces of globalisation and her advanced age. This vignette captures these elements alongside the stress causing the breakdown of family ties characteristic of role changing in a relationship originally built on a dual income model – a noted gender dynamic among Eastern Germans entering the gendered division of labour

characteristic of West Germany (Rosenfeld, et. al. 2004). This gendered division of labour is also highlighted in the next vignette on Emancipation.

III.B.4 – Emancipation

The emancipatory vignette incorporates an almost direct quote from Nussbaum (2000:83) that anyone resists being “an appendage of someone else”, which is translated as *Anghänsel seines Willens*” (an appendage of his will) in the context of a domineering and sexist boss. It also includes a specific and quite inflammatory German term, *Rabenmütter*, which means ‘Raven mother’ and refers to working mothers who leave the nest instead of fulfilling their homemaker duties. It also incorporates elements of single-motherhood – an important predictor in research on rates of welfare dependency (Huber and Stephens, 2014). It therefore aims to capture someone whose socialisation process included expectations both in the familial lifeworld and the capitalist system which rendered Frau E. a subordinate without her consent – precisely the type of origin story one would expect from an emancipatory orientation.

Frau E. ist 35 Jahre alt. Sie ist in einem politisch geprägten Arbeiterhaushalt aufgewachsen und ihre Eltern haben sich bemüht, ihr Liebe zu geben und sozialen Aufstieg zu ermöglichen. Sie hat die Realschule absolviert, mit der Hoffnung, Verwaltungsangestellte oder Sekretärin in einer Organisation des gemeinnützigen Sektors werden zu können. Bevor sie einen solchen Traumjob finden konnte, verliebte sie sich und bekam ein Kind. Eineinhalb Jahren später fing sie als Büroangestellte bei einem Lebensversicherungskonzern an, um finanziell unabhängig von ihrem Partner zu bleiben.

Frau E is 35 years old. She grew up in a politically-engaged working-class household and her parents strived to give her love and enable social mobility in her future. She completed Realschule with the hope she could obtain a position in local government or as a secretary for a non-profit organisation. Before she could find such a dream job, she fell in love and had a child. 18 months later, she began working in the office of a life insurance company, in order to remain financially independent from her male partner.

Als dieser begann, mehr Geld zu verdienen, wurde er dominanter und forderte sie auf, zu Hause zu bleiben, weil sie eine „Rabenmutter“ sei. Dieser Vorwurf ärgerte Frau E., besonders, weil er zuvor, als er weniger verdiente, kein Problem mit ihrer Arbeit gehabt hatte. Sie trennte sich von ihm und zog mit ihrem Kind in eine 2-Zimmer-Wohnung, in der beide noch immer leben (das Kind ist inzwischen 11 Jahre alt).

As he began to earn more money, he became more domineering and demanded that she stay at home because she was being a ‘Rabenmütter.’ This accusation angered Frau E., especially because before, when he earned less, he had no problem with her working. She separated from him and moved with her child into a 2-room apartment, where both continue to live (the child meanwhile became 11 years old).

Die Versicherungsfirma, bei der sie arbeitet, wurde vor zwei Jahren durch einen anderen Konzern übernommen, der das Management ersetzte und mehr Arbeit für weniger Geld einforderte. Obwohl sie als flexible und engagierte Arbeitnehmerin gilt, behandelt der neue Manager sie, wie die anderen Angestellten und insbesondere die Frauen, als „Anhängsel seines Willens“. Diese Mißachtung

führte bei vielen zu großem Unmut – auch bei Frau E., die sagte, „das geht bei mir nicht“, und kündigte.

The insurance company where she worked was taken over by another company 2 years ago, which replaced the management and demanded more work for less money. Although she was a flexible and engaged worker, the new manager treated her and the other office workers, especially the women, as ‘appendages of his will’. This disrespect led many to discontent – also with Frau E, who said ‘I won’t put up with this’ and quit.

Seitdem bewirbt sie sich nur noch auf Stellen bei politischen Organisationen und überlegt doch noch zu studieren. Sieben Monaten nach ihrer Kündigung erlitt sie einen Autounfall, der sechs Monate notwendige Reha-Maßnahmen nach sich zog. Während dieser Phase ging Frau E. von ALG I in ALG II über; zudem erhält sie Kindergeld. Die Physiotherapie ist jetzt seit vier Monaten beendet und Frau E. hat sich bereiterklärt, für eine politische Organisation zwei Tage pro Woche freiwillig und unbezahlt zu arbeiten. Sie bezieht jetzt seit 5 Monaten ALG II und sie hat eine Eingliederungsvereinbarung unterschrieben. Noch immer beklagt sie sich über Schmerzen und Stress von dem Unfall und erscheint oft ohne Makeup und in Sportschuhen.

Since then, she has applied only for positions in political organisations and is considering studying further. Seven months after quitting, she suffered a car accident, requiring seven months of rehabilitation and physical therapy. During this time, Frau E. moved from unemployment insurance to basic welfare (Hartz IV), in addition to her child benefit. The physical therapy has been finished for 4 months, and Frau E. has agreed to work voluntarily without pay for a political

organisation two days per week. She has lived on basic welfare for five months, and she has signed an 'integration agreement'. She still always complains about pain and stress from the accident, and appears often at the Jobcenter without makeup and in trainers.

Sie sagt, dass sie für eine Firma mit herrischem Management nicht mehr arbeiten könne. Ihrer Ansicht nach gibt es für die Gesellschaft wichtigere Dinge als die Wirtschaft und es mangelt an Demokratie. Deshalb findet sie es für sich am wichtigsten, sich für politische Veränderung einzusetzen. Wenn das Jobcenter keine faire Arbeit im Privatsektor für seine Kunden finden könne, findet sie, dass es für sie möglich sein muss, eine freiwillige Arbeit in der Zivilgesellschaft aufzunehmen und dafür gefördert zu werden.

She says that she cannot work for a firm with despotic management anymore. Her perspective suggests that there are more important things in society than an economy which undermines democracy. Therefore, she finds the most important thing for herself is to campaign for political change. If the Jobcenter cannot find fair work in the private sector for its clients, then she believes that it must be possible to take on voluntary work in civil society which should be supported.

Although derived from matching material from the *Armutsdynamik* data, Frau E. represents the key elements of an emancipatory action orientation as interpreted from Fraser (2011). Her household situation reflected the double-standards and hypocrisy of gender subordination commonly experienced by dependant women in households across countries, finding "that the people who support them financially also expect to have authority over them" (Soss, 2000:33), as well as the opportunity to avoid this subordination through entering the labour market or the welfare system. On the other hand, a new form of subordination emerges from the wage-labour

experience – in which I included Nussbaum's (2000) phrase to illustrate how a tyrannical manager can treat employees. Ultimately, Frau E. wishes to engage in the democratic transformation of society directly – the organising principle of an emancipatory system as understood in chapters three and four. Whilst the notion that someone should collect welfare and work in a volunteer capacity for political change may offend the norms of a lifeworld long accustomed to the capitalist system, when placed next to the rentier class hiring advocates for the opposite transformation of society, one can easily draw equivalencies. Moreover, the orientation has an empirical precedent which caused a minor scandal in Germany – the leader of the incipient Pirate Party also received Hartz IV during the Pirates rise at the regional level in 2010-2012, causing an outcry and stern words from the BA management (Erb, 2012).

Although my original design had both Frau M and Frau S to be Herr M and Herr S in half of the interviews, thus writing the histories in such a way that either gender could be used and consequently providing the groundwork for an experimental method, this proved too problematic for two reasons: 1) conducting an experiment partially deceiving research participants undermined ethical criteria; and 2) making valid inferences about potentially different logics applied to different genders in this experimental manner is more suitable for large-N surveys (Aguinis and Bradley, 2014). I therefore adopted a female gender for all vignettes to keep focused on the orientation itself, as well as the greater need for Frau E to be female – to retain realism in single parenthood.

Finally, in each vignette, a basic logic exists between normative and instrumental reasoning. Frau M has a normative goal of maximising consumer pleasure and minimising work input, thus maximising benefits to costs incurred (ie. opportunity cost), with the instrumental strategy for achieving this either becoming a capitalist herself with the Musicshop, or collecting welfare until a more worthwhile opportunity comes along – which does not equate to working for a wage for a similar income. Frau S has a normative goal of status preservation

as her social right following decades of qualified service in the labour market, with the state pension and welfare system instrumentally tasked with providing this. Frau E has a normative goal of individual freedom for herself and those oppressed and exploited like her, instrumentally reasoning that democratic participation provides the means.

These vignettes thus represent the three action orientations central to the conception of justice in this study, with each orientation's attendant normative and instrumental content. They proved quite effective in stimulating a reaction also adhering to normative and instrumental reasoning from research participants. They were used in every interview with mostly the same questions asked throughout – with questions shifting somewhat in context, but mostly focusing on the individual, system, and lifeworld levels of the epistemic framework in chapter three. Following interviews and transcription, the subsequent elements of the ECM were to place the interview into the regional context of Ingolstadt, Freiburg, Gelsenkirchen, and Greifswald-Vorpommern, followed by placing the interview insights in the context of the German political economy in 21st century capitalism.

Before turning to these final steps however, I ask the reader to imagine being Frau M., Frau. S, and Frau E., entering the system from a strategically weak position, desirous of social justice yet having a life history shaping far different orientations towards social participation. I thus ask the reader to enter into a communicative situation as one and all of these individuals – as I tried to do as the field researcher – effectively entering the Hartz Regime.

Chapter 6 – From Lifeworld to System: Action Orientations and Labour Market Integration in the Hartz Regime

“I was informed that, ‘For three or four weeks, although the level of redundancies has reduced, new orders have not arrived.’ Or, ‘Young, strong people are given greater attention than older ones.’... Nothing but natural scientific statements, without a word of criticism, which in this context would certainly not be appropriate. This is how things are, and this is how they must be. The oppressive devotion to the changing vicissitudes of market forces is plainly a typical characteristic of the employment agencies. Here, behind the back of the all-powerful production process, where one reprieves one’s life, the categories that have stamped this process as an unchangeable natural state of affairs still shed a faint glimmer of their old bright glitter. Here it is still an idol and there exists nothing superior to it. In the employment agency, the concepts governing it ooze through all pores, and if there is any place where they reign undisputed then it is in this space out of its narrow sphere of power over the discharged workers.” – Siegfried Kracauer, Frankfurter Zeitung, June, 1930¹⁵

According to the *Neue Mitte*/Third Way champions who inspired the policy of the Hartz Regime (Blair and Schröder, 1998; Giddens, 1998), the singular market mechanism of Kracauer’s Weimar-era description, depicting the unemployed as discarded cogs of the industrial machine, has successively diversified into dynamic and complementary market ecosystems (Hall and Soskice, 2001). This required employment agencies to become more measured, scientifically managed, and adaptable to diverse employer needs (Sowa et. al., 2015). Accompanying this epistemic shift and described below, the Hartz Regime places a moral imperative to find work on the unemployed individuals themselves – as if there is no longer a mechanistic production system which renders unemployment a structural feature of the macro-economy. Consequently, the work contract is transformed from an instrument of labour allocation into a key social norm binding individuals in the German lifeworld to their collective societal fate. It thus encourages a dutiful work-ethic regardless of individual choice, enforcing this social norm above any rational self-interest for the given individual. Although tying a moral orientation to a capitalist work ethic is hardly new (Weber, 1930), the Hartz

¹⁵ Quoted in (Leach, 1997: 58-59)

Regime institutionalises it in labour market policy. Unemployment becomes a subjective state, requiring a capability-enhancing activation system which remoulds the undereducated, weary, and rebellious into capable, active, and compliant participants in the natural ecology of a market-governed lifeworld. Those capable of normative reasoning are expected to readily understand this emphasis on the moral imperative of work, whilst those who do not require a change in perspective.

Regardless of how those championing and managing this system conceive it however, physical spaces still reflect the concepts governing them. Thus, the BA headquarters in Nuremberg, described to me personally as *Herrschaftsarchitektur* (architecture of domination), is housed in a daunting modernist compound reminiscent of a collection of giant mainframe computers – with reflecting windows and buzzing servers accumulating statistics and revising algorithms to reach Germany-wide goals. Yet, for the unemployed supplier of labour power, it is the local employment agency, or more likely the local Jobcenter, where one enters the system of the BA, itself the lowest rung on the hierarchy of the Hartz Regime, and indeed the substratum of German capitalism in the 21st century.

In 2015, the sense experience of entering a Jobcenter in Germany varies substantially between regions. However, the aesthetic appeal of a given local Jobcenter is not necessarily linked to the unemployment rate – which is instead indicated by the concentration of crowds in the waiting room or the smoker's corner outside. Although often housed in the same building and following the same guidelines handed down from Nuremberg, because Jobcenters distributing Hartz IV (ALGII) are organised along local-governance lines, whilst the *Arbeitsagenturen* dispensing unemployment insurance (ALGI) are organised as regional offices of the BA, the distribution of pleasant aesthetic props, or lack thereof, offers an initial interpretive insight into the distribution of resources in a given region.

On the one hand, one can enter a sleek building with natural lighting glinting off polished granite floors, located in a relatively accessible quarter of the town or city – reminding one of entering a specialised clinic designed for holistic healing. On the other hand, one can enter a crowded and seedy atmosphere overseen by security forces unrestrained in their scorn and contempt for the queues shuffling past – a contempt communicated to me quite clearly by security staff in one incident during field research. Once directed by the front desk towards a given location within the building, the subsequent step is waiting in worn hallways lined with chairs and smelling of human neglect – often whilst listening to the muffled shouts of discord behind closed doors – or, one may sit comfortably in smaller, specialised waiting rooms with various pamphlets available to peruse, most optimistically advertising local sub-agencies and pilot programmes assisting in the all-encompassing quest to get a job. Following this wait, one enters either a well-appointed office with an AV waiting behind a desk, often with a plant in the window and a side table for small meetings; or one enters a congested barrack of cubicle-like partitions presenting little in the way of privacy or holistic healing. Day in, day out, AVs themselves enter these workspaces, meeting with individual beneficiaries numbering as many as 400 per month (AV19). Each one of these individual beneficiaries has a life history which brought them to the Jobcenter, and each has an orientation towards not only a job, but what participation in society actually means. This orientation then confronts the BA as a subsystem of the Hartz Regime through communicating with an AV in these spaces.

The following chapter will detail the relationship between the three action orientations, animated by the vignettes outlined in the previous chapter, when confronted with the 22 AVs interviewed in this study. I will first describe the context in which AVs operate – particularly the 4-Phase-Model which provides guidelines for AVs in everyday practice – followed by a systematic sampling of what kind of responses emerge when AVs are confronted with the stories and orientations of Frau M, S, and E. I will premise the exploration of each vignette

with a section on facts and norms, elaborating a number of reified understandings of work, capitalism, and law in the context of each vignette. With the exploration of AV responses to vignettes forming the bulk of the chapter, I will code the interviews according to the incentive structures highlighted in chapter four, thus exploring the first 12 hypotheses of the matrix and answering whether or not parity of participation is granted to each action orientation. Demonstrating that parity of participation is not achieved, I will then describe how this result is premised on the core issue of defining waged work as a moral obligation in a Hartz Regime premised on ‘a contract for subsistence’. Due to how the law differentiates these participants of the wage-labour relation, I will suggest that welfare legally conceived of as a contract for subsistence, combined with a moral imperative of waged work, leads to intensified and unjust class distinctions. These distinctions are explored further in the following chapter.

I. Entering the Formal System through the Jobcenter

As mentioned in the previous chapter, what was once a difficult socialisation process into the lifeworld, generating non-conformist social norms or psychological problems, becomes subject to redefinition once Frau M, S, and E set foot in a Jobcenter and begin receiving welfare benefits as ‘clients’ or ‘customers’ (*Kunden*) of the BA. Hence, a personality, moral orientation, and skill set become subject to a systematic classification scheme with the ultimate goal of activation into waged employment. The following section will detail this system first through examining the guiding concept of client processing, followed by how each vignette fits within this model, before demonstrating in the subsequent section how normative reasoning dominates communicative action at the Jobcenter.

I.A - The Four Phase Model

The Four Phase Model is entitled ‘The Employee-Focused Integration Concept of the Federal Employment Agency’ (BA, 2013a) and contains exceedingly detailed questions, effectively offering an epistemic frame of relevant knowledge for AVs. This frame maps categories of understanding, as well as criteria for AVs to differentiate, enhance, activate, and discharge clients. Observing practice in the lifeworld however, this model was referred to as ‘The Cube’ by one AV during an interview, who proceeded to draw out the large ring binder from an office bookshelf and unceremoniously drop it on the desk with a sharp thud. Although more or less required reading for AVs, after several interviews it became exceedingly questionable whether this is actually followed dutifully when interacting with welfare beneficiaries sitting across the table. This already suggests a dissonance between the BA as a system, which catalogues, classifies, and ‘dividualises’ welfare beneficiaries into their component competences and weaknesses (Eversberg, 2015), processing them according to systematic flow charts, and what the AV actually says and does when sitting across from a client. Nevertheless, an examination of what is devised and codified in Nuremberg, subsequently distributed to Jobcenters across Germany for implementation, is instructive in describing how the BA as a system understands the nature of both unemployment and the purpose of the Hartz Regime.

The first step in being a welfare beneficiary is profiling. People seeking unemployment must apply for it, like applying for a job, which provides initial details on location, household situation, skill levels, certifications, and work experience. These are plugged into a customised computer programme called VerBIS (Placement, Advising, and Information System: *Vermittlungs- Beratungs- und Informationssystem*) which matches skill sets and qualifications with employers throughout Germany who advertise with the BA. However, because the Four Phase Model aims for comprehensive client processing, simple matching between skills on the supply side and demands from employers becomes only one of four key elements of profiling.

In addition to formal qualifications (*Qualifikation*), the others include performance potential (*Leistungsfähigkeit*), motivation (*Motivation*), and ‘general conditions’ (*Rahmenbedingungen*) which reflect the individual’s socialisation process and what one could describe as ‘functionings’ (Sen, 1999). The empirical data for these categories are judged by the AVs in initial meetings, with very specific questions in the guidelines regarding capacity and penchant for argument, physical appearance, interest in new ideas, capacity to handle stress, ability to set goals and develop plans, etc... with numerous possible indicators to evaluate each of these categories (BA, 2013b). These are then fed into VerBIS in pre-determined categories to create an overall profile of the client (BA, 2013b). In short, profiling is an exercise of instrumental reasoning *par excellence*.

Figure 6.1 – The Four Phase Model (ie. ‘The Cube’)

		Integrationsprognose						Schwerpunkt
		Abgang/Integration 1. AM ≤ 6 Monate		Abgang/Integration 1. AM 5-6 Monate		Abgang/Integration** 1. AM ≤ 12 Monate		
Profilfrage	Markt- profil	Aktivierungs- profil	Förder- profil	Entwicklungs- profil	Stabilisie- rungsprofil	Unterstüt- zungsprofil	Weitere Handlungs- bedarfe	
Schlüssel- gruppe								
Qualifikation			✓	✓				
Leistungs- fähigkeit			[oder]	[oder]	✓			
Motivation		✓						
Rahmen- bedingungen			[oder]	[oder]		✓		
	-	möglich	möglich	+ mind. eine weitere Schlüsselgruppe oder Verdichtung bei Qualifikation/ Leistungs- fähigkeit/ Rahmen- bedingungen	+ mind. zwei weitere Schlüssel- gruppen oder Verdichtung bei Leistungs- fähigkeit	+ mind. zwei weitere Schlüssel- gruppen oder Verdichtung bei Rahmen- bedingungen		
Integrationsnah				Komplex				
*Sowie gesondert begründete, komplexe Förderprofilagen **Alternativ: Erhalt der Integrationsfähigkeit								

Source: (BA, 2013a)

As expressed in Figure 6.1,¹⁶ the profile stage on the far left contains each of these basic four categories, followed by an integration prognosis (*Integrationsprognose*) as a temporal measure along the top side of the cube, with the flat side facing the reader indicating what kind of problem areas exist in terms of qualifications, performance potential, motivation, and general conditions. One of six possible profiles emerging from these characteristics reflect the expected time on welfare or unemployment benefits before reintegration into the labour market – as is reflected on the top of the cube. Thus, an individual lacking significant problems in any category has a ‘Market profile’ (*Marktprofil*) and a person with only motivation problems is an ‘Activation profile’ (*Aktivierungsprofil*) – both of which are expected to be integrated into the first labour market¹⁷ within 6 months. Interestingly, and certainly becoming more important as we proceed, motivation as a problem issue is defined exclusively as self-initiative/work ethic followed by a single strategy: *changing the client’s perspective* (BA, 2013a:19).¹⁸ As problem areas become more complex in the next two categories, skill-upgrading, disciplining daily routines – categorised under ‘performance potential’ and repeatedly mentioned in interviews as the need to get up early (*frühe aufstehen*) – or housing stability, health, childcare provision, and mobility issues. These form the ‘Facilitate profile’ (*Förderprofil*) for issues resolvable within six months, with a ‘Development profile’ (*Entwicklungsprofil*) requiring longer-term strategies (over 12 months) such as a need for apprenticeship training, more serious health problems, or old-age limitations on physical labour, German-language instruction, family stabilisation, etc... Finally, those in need of multi-year stabilisation who have mental, social, and physical problems, such as the mentally ill, drug addicts, individuals in violent households, etc... form the ‘Stabilisation profile’ (*Stabilisierungsprofil*), whilst those with terminal disadvantages form the Support profile (*Unterstützungsprofil*) who are likely never to gain

¹⁶ This is taken directly from the publicly available document which is the 8th version published in December, 2013 and the latest version available at the time of field research.

¹⁷ 1st labour market = *SvpB*

¹⁸ *Handlungsbedarf: Eigeninitiative/Arbeitshaltung -> Handlungsstrategie: Perspektiven verändern*

employment. Rather crassly, according to the law (SGBII§53a) those over age 58 unemployed longer than one year are not included in the German statistic of unemployment, yet, despite this dismal expectation, they are profiled as permanently in need of support only depending on decisions by the local agency director.¹⁹ This becomes relevant for Frau S. as we shall see.

As already implied by some observations in the above discussion, the latter three phases of the four phase model are 2) defining goals, 3) drawing up a mutually agreed strategy, and 4) implementing the strategy with follow-up meetings with the AV. Following the profiling, these latter three stages form the obligations under the ‘contract for subsistence’ in the terminology used here. However, the profiling shapes and even formally determines the subsequent phases, as goals and strategies must be realistic for the capacities of the individual.

In terms of the epistemic framework in this thesis, elements of the individual are functionally-differentiated into components: a human capital profile, a socialised personality, a moral orientation, and even personal norms in clothing and hygiene. These components then form differentiated categories of improvement through supporting client goals, offering further training, communicative disciplining, or threats of sanction.²⁰ The four phase model should be understood as part of the BA, itself a comprehensive subsystem of the Hartz Regime which guides labour allocation in German capitalism. System reintegration means finding a wage labour contract which pays sufficient income to reduce the welfare benefit to zero through *SvpB*. The Four Phase Model thus embodies a highly specific logic of functional differentiation applied to a given individual’s human capital profile and moral orientation, how those defined characteristics integrate with the broader subsystem of labour allocation, and how the overall

¹⁹ Even with further follow-up research, I was unable to confirm anything other than the local decision on this apparent contradiction. It seems contradictory that someone over 58 can be considered removed from unemployment statistics whilst being profiled as anything other than a ‘support profile’.

²⁰ See (Eversberg, 2014) for an exceedingly detailed examination of this characteristic of BA client processing, theorised as beyond the atomisation and individualisation processes of modernity expressed by, for instance, Beck (1992), into a ‘dividualised’ fragmented individual with various components of self-value determined ultimately by functional capability for market integration.

production system thus disposes of this individual's labour power. The BA effectively forms a bridging system between market utilisation and state support of unemployed labour power, thus performing a central role in the Hartz Regime. To further describe this process, I will turn to the schedule of benefits, a mechanism legally allocating subsistence money for welfare beneficiaries, as well as how this gradually changes as more wages are earned via the organising principle of the market.

I.B. – Expenses and Benefits in a Community of Need

In 2015, a person on Hartz IV received €399 per month plus whatever the rent and heating costs for housing (KsGAlg, 2015). Rent varies considerably by region, with Freiburg described as one of the most expensive regions in the country (AV-Interview 16, 2015). The €399 is an aggregate of estimated costs, broken into 12 categories which have specific amounts expected for each category. For instance, food and drink is expected to cost €4.66 per day, whilst the monthly costs for transportation is expected to be €25.12 (KsGAlg, 2015). When someone has special needs such as being pregnant, or handicapped but considered employable, or even extra transport costs, supplementary monthly payments are offered. In addition, warm water costs are considered a special need in certain environments, which amounts to a maximum of €9.18 per month. Although these are the basic payments of Hartz IV for a single individual in 2015, many do not actually live in single-person households – such as possibly Frau M and definitely our single mother Frau E. This living situation generates a different calculation based on the concept of 'community of need' (*Bedarfsgemeinschaft - BG*).

Curious to investigate this concept in practice, Frau M was written as having an exploratory lesbian affair in a 4-person shared flat with her roommate – who is also on Hartz IV. Whether or not they are actually in a BG was a question posed in each interview. Because

the concept of BG effectively equates romantic relationships with financial commitments, how it is treated by the Jobcenter becomes exceedingly relevant for how happily married couples, fighting couples, exploratory lesbian couples, roommate flings, etc... are defined in their own right. This becomes a systematic implementation of a particular cultural norm at least for those in a dependent position in the social structure – with home inspection seeking evidence of romantic involvement a possible option exercised by the state.

When responding to the question: Is Frau M in a BG even when she says she is not?
One AV responded:

“... she is also not sure if she actually is a lesbian. She can persist in her uncertainty, then after one year – if they live together in principle for a year – after a year, a BG is assumed. But the constellation here, that they are in a 4-person flat...[pause]. From the outset, I always ask new clients: is there a partnership (*besteht eine partnerschaftliche Beziehung*)? That can even also be same-sex. So, in this case: I live in a shared flat, there is also 2 person shared flats, and if it is a man and a woman, then we presume very quickly, BG. When it is same-sex, then it is only a hunch. But I always generally ask: is there a partnership? And that can even be in a four-person flat. When [Frau M] from the outset claims purely no, not in this situation, then we have no chance. The only chance if we suspect there is a BG, is to make a housecall and investigate.”
(AV9).

Later on, this AV would give an example of when a housecall is called for:

I actually had an initial meeting (*Vorsprache*) with two young women... who had rented a flat together, and came here from [place], in which I did not at all assume this could be a lesbian relationship, but in the scope of conversation,

with there [across from the desk] sitting the applicant [to become a client of the Jobcenter] and there sits the landlady, and she had asked if she could come with – which doesn't matter for me, if they share confidential things with each other – but it is quite untypical that a landlady comes here. In an actual shared flat, but a landlord-renter relationship? This partner asked more questions than the applicant, very assertive, and when it came to starting work and stuff, she [the applicant] had no driver's license. And then she told me, the landlady, she came only as a landlady, it appeared that she would drive Mrs. So and So around with her car at anytime, all over the place. Anytime, day and night, always. And that was very unusual even for a female friend, one would not do that, or a male friendship. Perhaps a week or two weeks, but it appeared that they would be with one another at any time, so that we, that I said, this is more than a landlady and a rental relationship and made a request to see their expenses (*Antragsausgabe*), and they appeared the same, afterwards we spoke again and they both said the same again, and with that, we must investigate if there exists an accountable – or, community of mutual responsibility (*Einstehensgemeinschaft*). Simply checking: does a partnership exist? You notice it. You notice it" (AV9).

The housecall is performed by a different department who distributes the actual benefits to the client called the benefits division (*Leistungsabteilung*). Indeed, whether or not such a housecall is to be performed is not the responsibility of the AV but this formally separated department, thus requiring a second layer of bureaucracy for the client to navigate. If tasked with a housecall, it means showing up at the residence to examine various things, including whether the bed appears to be shared, or whether shelves within the refrigerator are separated or shared. For whatever reason, sharing items in the refrigerator was mentioned multiple times

when I inquired about the criteria of what constitutes a BG. If some kind of relationship is presumed to exist, then an effective financial penalty occurs. The irony of this was not lost on some AVs, one of which argued:

“in the beginning as SGB II was developed, we thought very long that these people who moved in together, also to build a BG, have instead now determined that because 2 people receive less, not €399, that many, themselves married partners, have now separated, and the partnership with each other has gone. I think myself that lawmakers made a bad decision. They had everyone go through the same process if they lived in a BG or not. Now it is such that the only ones profiting are the real-estate companies (*Wohnungsgesellschaften*). At first we often sent the housecall service, do they live like that really, or is it really only one address? – but in the end, for the work placement side, this isn’t relevant. They apply and in the application state Person, 1, Person 2, Person 3, Person 4. If they enter that they are a BG, then they are counted as a BG [pounding table with statements], if they write in that they live with their Aunt or in a shared flat, then everyone receives [Hartz IV] individually” (AV10).

Comparing these quotes immediately suggests that the zeal in enforcing the law is a subjective decision by the AV. Many suggested that after one year living together in conditions where they are responsible for one another (*für einander einstehen*), two people are assumed to be in a BG, whilst everything prior is a trial period. Nevertheless, tying benefit levels to a BG has the unintended consequence of materially incentivising the physical separation of partnerships to maintain the maximum welfare payment, yet presumably costing the state more by separate payments to real estate companies as rental costs are not included in the Hartz IV payments. Interpreting the example given above, we thus encounter a situation where two young women, exercising an instrumentally rational strategy to hide their relationship

from the Jobcenter, are banned from realising this form of reasoning, yet the system materially discourages them from fulfilling the very normative ideal embodied in the concept of BG: a community of mutual support less financially taxing to the state.

I frequently questioned the vagueness of the terminology surrounding a BG during interviews, often to find rather baffled expressions suggesting that the concept of a BG is universally understood. This suggests a *reified* understanding of how intimate relationships operate – which in turn suggests policies of *defamilialisation* (Sainsbury, 1996) are not prevalent in the Hartz Regime. On the one hand, throughout all interviews with AVs, the lesbian form of the relationship was formally treated equally – thus falsifying any *formal* discrimination endured by same sex couples. On the other hand, with formal non-discrimination integral to the concept of BG, the myriad of reified assumptions regarding the content of an intimate relationship becomes subject to surveillance and definition, undermining the autonomous capacity for welfare dependent individuals to define the content of their own intimate relationships. From the perspective of the BA, emancipation from these imposed definitions is of course simple: reduce their dependency on Hartz IV and get a job. This observation thus provides the first instance of how the legally-backed exercise of defining universal social norms as obvious facts – in effect, reification – subsequently imposing them on those in dependent positions, this time embodied in the assumptions about a BG, negatively enforces the overarching norm of working for a wage among clients of the Jobcenter. Because it makes a number of assumptions about the financial content of intimate relationships, the BG concept also undermines *defamilialised* welfare provision. Thus, to escape surveillance and control of one's personal life and family, one must work for a wage.

I.C. – Vignettes Categorised within the Four Phase Model

With the profiles, benefit amounts, and the concept of a BG defined, let us turn to how each vignette fits within the profiling and benefits scheme. I will first define the BG for each, followed by possible profiles and reasons for such profiling. Much of the subsequent analysis figures into what kind of problem areas each vignette has, thus rendering the profiling stage of the Four Phase Model crucial in determining which kind of incentives are applied to the given action orientation. Each vignette was written as potentially any of the given profiles, but primarily either an activation or a market profile, hypothesising that the motivation deficiencies of the activation profile equated with the need to enforce a specific action orientation. This turned out to be somewhat different, as many AVs considered each of the vignettes rather agreeable compared to their regular dealing with alcoholics for instance, yet often initially considered the various issues of Frau M, S, and E more serious than I had originally intended. I will thus describe the intention of the vignette in terms of the profiling, followed by some preliminary remarks on how AVs tended to react to them.

- 1) **Frau M** – Three AVs refused to answer whether Frau M was in a BG due to having experience only within the ALGI unemployment insurance subsystem which does not require means-testing of partners. Of those AVs that responded to the question of whether Frau M was in a BG, 52.63% (10/19) answered they would not consider it a BG. The next highest percentage was its opposite, immediately defining the constellation as a BG – in 31.56% (6/19) of the interviews, whilst 10.53% (2/19) and 5.26% (1/19) called for waiting one year and a home inspection, respectively. This suggests that normally Frau M would be considered independent – allowing her the maximum of €399 per month plus housing benefit. Although tattoos and piercings would be considered part of the ‘general conditions’ of Frau M, I was surprised to find a rather limited response to this issue, mentioned only in a few interviews as a problem for certain types of jobs. Instead, AVs saw ‘qualifications’ as the primary issue. The

unwillingness to work for the same monthly payment as ALGII also formed a ‘motivation’ issue in most interviews. Frau M was thus often *not* considered a Market-Profile due to a lack of completed formal education and her motivation issues rendering her either an activation or development profile.

2) **Frau S** – Because her divorce was quite distant and alimony was not mentioned in the text, Frau S is a rather straightforward single person receiving €399 per month plus the housing benefit. My inclusion of Frau S’s ‘movement with grace’ alongside wearing old but clean clothing was never mentioned in terms of general conditions. Nevertheless, it became immediately obvious that the main issue was age. Although placing Frau S widely along the spectrum of profiles depending on AV and region, the primary concern was whether she could work again at all. Nevertheless, Frau S was written as either a Facilitate- or Support profile.

3) **Frau E** – Frau E has a complex situation due to her ambiguous relationship with her ex-partner. The complexity of her situation also within the vignette’s text created an ambiguity in each interview. After mutual definitions, the following calculation is based on the notion of Frau E as a single mother with primary custody. With primary custody of a child between the ages of 7 and 14, her additional need beyond €399 is calculated at €267 (KsGAlg, 2015) for a total of €666. However, she receives the universal *Kindergeld* credit of €188 per month (BfFSFJ, 2015:22) which is counted as part of Frau E’s income in the calculation of her monthly need, equalising her payment at €666. In addition, under certain circumstances, like when the father cannot pay sufficient child support, an additional payment for single mothers is distributed by the Jobcenter called a maintenance advance *Unterhaltsvorschuss* (AV1) which amounts to €194 (2015), per month for a maximum of 5 years after the separation of the child from the second parent (BfFSFJ, 2015:9), or until the child is 12. However, depending

on the income of her child's father, she should receive an extra payment in child support. This amount is calculated according to the Düsseldorf Table (AV16) which can be located online.²¹ Because Frau E's child is 11 years old, she will receive a gross between €364 and €583 depending on his income – *if* the couple has gone through the legal process to enforce this child support. That this is not a flat rate suggests an underlying assumption of increased need in children with higher income parents – an ancillary suggestion of social class distinctions in welfare policy. Regardless of the father's income however, child support reduces the *Unterhaltsvorschuss*. Moreover, because ALGII is the last possible source of state-distributed welfare income, obtaining extra income from any other system must be applied for first and discounted from the ALGII payment (see SGBII §11 and 11a) largely preventing any income beyond €666 per month for Frau E. In short, *Frau E must fill out considerably more paperwork to receive the same income*. In terms of profiling, although I attempted to write Frau E as an activation profile, placing complaints of pain from her automobile accident as duplicitous due to an ability to work in a volunteer capacity, thus creating an overall picture of an individual in need of activation, these elements were taken more seriously than expected. AVs thus often considered Frau E (at least in the context of a 1-hour interview) perhaps more of a Stabilisation profile. However, as we shall see, there may be another reason why AVs resorted to this tactic – having to do with the strategic and normative dilemmas AVs face in the practice of their own jobs.

With Frau M and S both receiving €399 euros and profiled as they are, whilst Frau E receives somewhere around €666, I will now describe the field they potentially enter in terms of the types of available jobs or activation programmes one encounters at the Jobcenter.

²¹ http://www.olg-duesseldorf.nrw.de/infos/Duesseldorfer_tabelle/Tabelle-2015/index.php [Accessed 9/7/2016]

I.D. The Field of Possible Forms of Integration

Aside for actually entering into wage labour, throughout the course of research a distinct tendency to offload welfare dependents from the Jobcenter to other systems also emerged. Regarding Frau M (AV1), because she has completed an *Abitur* – the highest secondary education level achievable in Germany – she is allowed to immediately re-apply for university. By doing so, she obtains what's colloquially called *BAföG* (*Bundesausbildungsförderungsgesetz*) – a stipend covering part of living costs for students. Because Hartz IV is the last legal source of subsistence, *BAföG* is something they must apply for if on Hartz IV and planning to enter university. In addition, Frau M. may enter into an apprenticeship – which is a right in German law and subject to many different funding mechanisms depending on *Land* (AV13). For Frau S, the ever-present possibility of early retirement exists. However, for those under age 65, applying for early retirement penalises the amount of monthly income received – 0.3% per month of the 24 months between 63 and 65 years (DRv, 2015:15) – thus presenting a possible 7.2% monthly pension reduction. Of course there is also disability insurance for those incapable of working – something mentioned in the case of Frau E due to her car accident. However, this was not the intention of the Frau E vignette, as she can clearly work if she can volunteer. For each vignette therefore, the possibility of offloading the client onto another system without actually activating them in the labour market is an option. However, the BA's primary role is still understood as an employment agency and assist in finding a job – of which there are several types.

As mentioned in Chapter 1, the first is simply called 'measures' (*Maßnahmen*) which mostly pay a pittance. These can be programmes such as activities for 50-plus unemployed, as well as other publicly-organised social services like helping out in a retirement home, or

mild landscaping work in public parks (K3). These are dependent on initiatives funded by various levels of government. Therefore, they were considered an option by AVs only sporadically due to inconsistent funding. Nevertheless, particularly for Frau S., this presents an option to avoid pension reductions.

The next type of job is a so-called the Minijob, precisely the type Frau M. finds irrational according to her market orientation. When an individual works less than 15 hours per week and earns under €400 per month – the minimum threshold before social insurance payments are deducted from earned income – someone is said to be in a Minijob. This creates a threshold of around €7.00 per hour and 64 hours per month. However, on 1/1/2015, the first nationwide minimum wage of €8.50 was implemented in Germany – reducing weekly hours for Minijobs to slightly over 12. The existence of the minimum wage does *not* however imply Minijobs will disappear. Instead, employers are likely to shift hours between auxiliary and full-time staff to pay the equivalent labour costs, as well as some off-the-book work to equalise labour expenditure to the level preceding the minimum wage (AV4). Because income earned per month is deducted from the total ALGII benefit, aside for the first 100 Euros (AV3), working 12 hours per week will thus produce a net gain of €100 per month minus social insurance contributions compared to not working at all. This minimal extra money is considered instrumentally irrational action by a Frau M focused on opportunity cost.

Beyond Minijobs, a type of employment more common in Germany and explored further in Chapter 8, is that of *underemployed* welfare dependents – the ‘working poor’ – which I have classified as ‘precarious’ (Voigt, 2016) somewhat following the Hans-Boeckler Foundation (2015) in statistical classification, yet taking the term from Castels and Dörre (2009). These jobs also often include various forms of subsidised private-sector job creation schemes such as the temporary employment agency programme studied by Eversberg (2014). In the precarious case, often due to multi-dependant BGs, individuals can work up to full-time

whilst still receiving welfare benefits. Although obliged to pay social insurance contributions – fulfilling the oft-stated goal of Jobcenter clients in obtaining SvpB – the employed nevertheless remain dependent on the state to top-up (*aufstocken*) their monthly income. As has been pointed out elsewhere, this indirectly implements “government sponsored labour cheapening” (Eichhorst and Marx, 2012:78).

The next category of work is wage labour sufficiently paid to support the individual or family without welfare – which can be through a well-paid part-time job but generally through the ‘typical’ full-time job. This type of employment tends to be the positive category of dualisation studies, described as “permanent full-time work” (Eichhorst and Tobsch, 2015:85) and declining in relative share of total employment in Germany.

The final category is a scheme designed to create free-lance self-employed individuals through subsidised ‘start-up’ grants, usually termed ‘Me, Inc.’ (*Ich, AG*) (Beck, 2000) and having a history in German labour market policy prior to the Hartz Reforms. Marco Caliendo (with Kritikos, 2010; with Künn, 2011) has studied these programmes, publishing numerous papers, each a slight variation on dataset usage and formulas for quantitative causal analysis to ultimately confirm, at least prior to its reform in 2006, that these programmes were more effective in reducing welfare dependency for those who participated than those who did not. The programmes were streamlined in 2006 in favour of the *Grundungszuschuss* (Caliendo and Künn, 2011:314) or start-up subsidy, which will be abbreviated as EG here.²² The EG programme reduced the range of unemployed individuals qualified for the start-up subsidy (Caliendo, et. al. 2012). Frau M’s desire to open a music shop would fit within this type of

²² Although shifting in specifics and names over time, this programme was primarily referred to as *Existenzgründung* or asked in verb form: *[Sollte Frau M] eine bezuschußte Existenz gründen?* – meaning ‘found a subsidised start-up’. Thus ‘start-up’ or ‘EG’ will be the term of reference for this concept.

programme and is indeed the most instrumentally rational support the BA would give for someone with a marketised action orientation: that of becoming a capitalist herself.

With possible job forms defined, we can now examine how each aligns with a given action orientation.²³ I have defined Frau M as either an activation or development profile mostly succeeding in hiding her intimate relations from the Jobcenter and receiving €399 per month. An EG effectively presents the best option for someone with a market orientation – thus becoming a capitalist herself – but this does not necessarily mean activation. Although she can enter the open labour market in a full-time, part-time, precarious, or Minijob, because she has no apprenticeship certification or university degree, Frau M can also be considered a development profile regardless of her orientation – suggesting further education before any actual labour market participation.

Frau S was written as an activation, facilitate, or support profile – also receiving €399 – but has the added potential to enter into early retirement. However, considering an orientation towards social protection has been defined as consistent with the norm of reciprocity, forcing Frau S. into reduced early retirement presents yet another betrayal in the long line of perceived betrayals she has endured. First educating herself and entering into a specialised manufacturing role, working her way up to management within a firm – ultimately even marrying within the firm – presents the ideal behaviour of a loyal employee in the industrial age. Thus, from Frau S's point of view, liquidation without severance, divorce, long-term unemployment support cut in favour of Hartz IV, and forced work in a low-skilled service job (call centre) are each a betrayal of the status-preserving norms of social protection.

²³ Although described explicitly in the following paragraphs, the various options available to AVs to process each vignette were not immediately clear upon entering the field – a typical pattern of ethnographic case studies (Small, 2009:25). The everyday knowledge of the AVs tended to take over when discussing the possible options for each vignette until these categories were retro-actively established. Some AVs helpfully explained what they would do before I even presented any options, whilst others would correct early mis-construed questions.

In this context, Frau S would prefer to simply be left alone or receive full early retirement (which is not a legal option in her case, but nonetheless reflective of the action orientation).

Frau E. is either a stabilisation or an activation profile, receiving around €666 depending on how much the father of her child earns. At 35, with certification and a *Realschule* background, Frau E is a classic working-age individual ripe for labour market participation. Indeed, Frau E's background suggests the most realistic chances for participation in full time employment, aside for one factor: she has an 11-year-old child. Because the German primary education system still finishes the school day around 1pm, this child will need supervision if Frau E. is working full-time. Therefore, all activation for Frau E. is premised on the capacity for her to find childcare in the myriad of public, non-profit, and private childcare options – an element of the vignette mentioned regularly during interviews.

With profiling accomplished and integration options defined, Frau. M, S, and E will now require goal-setting, concrete behavioural expectations, and eventual discharge. Although facilitating the individual quest for the elusive full-time job or entrepreneurial success is the *modus operandi* of the BA, thus eliminating their dependency on the state, this should not be confused with promoting a marketised action orientation. Placing the self-interested and instrumental pursuit of individual accumulation above the social norms of reciprocity or emancipatory autonomy is certainly not how welfare dependents experience communicative action at the Jobcenter. As we examine the content of AV communicative action, we will instead come to see work as a moral duty essential for social integration, not necessarily even as an avenue to reduce state dependency.

II. Normative and Instrumental Reasoning at the Jobcenter

With the range of formal options for AVs described, it is important to categorise these in terms of the four incentive structures highlighted in Chapter 4: positive and negative normative reasoning or positive and negative instrumental reasoning. Positive normative reasoning in everyday practice aligns with communicative action stressing social integration, often through enhancing capabilities or emphasising the positive psychological aspects of a moral orientation aligned with social norms. Negative normative reasoning is interpreted as moral judgment and especially moral *duty* – with both usually enshrined in law. Positive instrumental reasoning means financial support for whatever each vignette desires, whilst negative instrumental reasoning equates to sanctioning (ie. reducing benefits), which intensifies structural coercion into wage labour simply to subsist. By theorising the logics of participation for those outside the wage labour relation equate to incentive structures which positively or negatively compel participation – or ‘social integration’ as defined by the discourse of the BA – we can uncover how incentives are used for each given action orientation. With the vignettes animating these action orientations, we can now test the first set of hypotheses detailed in the previous chapter.

In the following section, I will first discuss the lifeworld each vignette enters at the Jobcenter, presented as the facts and norms of each situation and elicited through general questions with interviewees. I will then briefly reiterate each vignette’s ideal concrete option reflecting the action orientations of marketisation, social protection, and emancipation, followed by extended quotations demonstrating how AVs tended to reason in response to each vignette, interpreted according to the incentive structures elaborated in chapter 4. This will be followed by a quantified visualisation of the forms of communicative action confronted by each vignette. The final section of each will code these for all AV interviews along a simple scale, allowing for a confirmation or refutation of the first 12 hypotheses provided at the end of chapter 4.

II.A – Frau M

As was detailed in the previous chapter, the Frau M vignette has three key elements expressing her action orientation: 1) the absurdity of working a Minijob; 2) the desire to open her own music shop; and 3) the desire to accumulate more money to live a prosperous consumer lifestyle. The first indicates an instrumentally reasonable aversion to the notion of working simply to maintain the same take-home income as not working at all – particularly if the opportunity cost of doing so undermines her larger goals. Although we have concluded 12 hours per week will actually obtain €100 extra per month, the logic of Frau M was frequently considered understandable by most interviewees in any case. Therefore, the key questions, subsequent to the BG issue described earlier, focused on what the AV would advise Frau M to do and how they would deal with this self-interested aversion to workfare. The following will examine how these elements of Frau M's action orientation interact with AVs understanding and forms of reasoning, starting with the general facts and norms surrounding Frau M's aversion to Minijobs – effectively exploring the relationship between individual morality and integration into the labour allocation system.

II.A.1 Facts and Norms for Frau M: Work as a Moral Duty

The following section will probe the link between social norms and the scope of their universality, particularly regarding a work ethic. In order to do so, I confronted AVs with a direct question on how to interpret Frau M's instrumentally reasonable aversion to working a Minijob. Regarding this aversion, many AVs had a negative interpretation, relying on distinctly negative normative reasoning – most forcefully expressed in the following manner:

“Frau M. is very self-centred. Egotistical. Has big dreams but has always her, so to say, her personal concerns placed in the centre, and has not given her occupational development attention that one actually expects regardless if with us as a welfare beneficiary or with another... She is not convincing (*überzeugend*). And when anyone from outside says so: you are not straightforward but are with the motion of the sea, you are there, and then there, and oh, there is a flower [looking off distractedly] – no? – like a fantasy, then she slips into being like a child. Yes, one can do that. But in society, it is not only about living, it is also about giving...” (AV10).

This is a definition of a lifeworld situation according to this AV. Being self-centred and egotistical is clearly against the norm of ‘giving’ to society and the expectations of personal development for a given individual. By comparing Frau M. to a child unable to grasp the apparent give-and-take of societal participation, combined with a much longer diatribe about the importance of sacrifice and fulfilling societal expectations, this AV is expressing negative normative reasoning effectively criticising Frau M’s moral orientation to work.

Because an instrumentally reasonable aversion to working a Minijob is cast as a moral failing, she must be re-educated through work itself. Work thus becomes of integral importance in learning how to live:

“I would try to bring her directly into the labour market, because she has not yet persevered [with anything] very long and she can be active in the *Hilfeberiech*.²⁴ EG definitely not; in all cases, a work position in the *Hilfebereich*. [Why?] Because in principle she has until now – I must quick read

²⁴ *Hilfebereich* equates to unskilled labour without any kind of formal certification coming from either a tertiary degree or a completed apprenticeship. This is the lowest paid category on German wage-bargaining agreements.

[pause]. Exactly, because she has complained (*geschimpft*) about every job – badly paid and too early – and has always skipped out on everything, and therefore she should first of all work in the *Hilfebereich* for some time, and properly get to know working life (*Arbeitsleben richtig kennenzulernen*), and then later one can always consider something else.” (AV5).

Complaining about poor pay and early hours is intuitively common among all workers, but through more poorly paid work in the *Hilfebereich*, Frau M will eventually *learn* that her expectations are against social norms and need adjustment. As the *Hilfebereich* status is on the bottom of the wage schedule, the extra money Frau M could earn per month does not even figure into the above AV’s reasoning. Instead, working life is universal social norm which requires adherence to regardless of its immediate instrumental value to the individual. Indeed, the term *Arbeitsleben* was frequently used in response to this question, although often in context of its importance to the lifecourse. Tied in with this logic, as another AV put it: “Employers look at that positively, when someone on unemployment takes on a side job. She who [does so] is into working life” (AV20). In short, one can be a self-centred welfare recipient averse to the social norm of work, or an active participant in society through working life – which makes the individual more attractive to employers.

Although still focused on changing her perspective, many AVs also employed language regarding working life in a more positive light, arguing for the importance of work as part of the good life also for Frau M. This form of reasoning is usually described in the following manner:

“With work, it is not only about earning money, it is also about taking part in work, that is, also participation in society (*Gesellschaftsteilhabe*) when I have work. That is also for myself, for my Psyche... If I sit around the house and

receive ALGII, what am I doing? I am doing nothing at all. Laying around the whole day and listening to music, what am I doing?” (AV14)

Or, another way of putting it:

“she should reflect beyond this [maximising money], that a new occupation is important for her life. Not only to earn money, but also for her life and her development. And what does life and development mean? That means that work also has another life, another *social* life of coming together into a group (*in Pool zu kommen*). At work you get to know people – I have relationships also with my co-workers and colleagues, I experience work sometimes also as stabilising, for problems someone would sometimes otherwise have, to experience a stability that someone would otherwise perhaps not have. Moreover, some people naturally also have difficulties to organise their daily routine or their daily life and work plays an important supporting [role] in that” (AV12).

Finally, possibly in homage to Axel Honneth’s (1991) notion of recognition – or simply a personal belief employing the same term – the AV in the following passage argued:

“I simply believe that people are simply so, it lies within us. We don’t want to sit at home, we want recognition (*Anerkennung*) from others, and really to be able to develop (*Entfaltung zu können*). [Recognition?] Yes, recognition. Money is in the end also not so important – it is really like that, being in a social community – and then even also recognition for that. Where I get back what I put in (*Wo ich komme was ich mache*). I believe simply that as people, this lies within us.” (AV8).

Frau M thus encounters a discourse that suggests she cease orienting herself towards work as a mere means to accumulate money and instead think of it as something important for her daily schedule, her interaction with other human beings, and her own psyche. Although perhaps not emerging from Honneth's theory of recognition, working with others and receiving their recognition for that participation lies within our constitution as human beings. Beyond the negative normative reasoning in which we do not deserve recognition as an adult without understanding the moral importance of work, in this positive view, work becomes universally constitutive to the individual psyche and is thus clearly communicated as a universal norm – suggesting a *reified importance of wage labour to an individual's constitution*.

Although one could argue that these endorsements of working life through emphasising its importance over the lifecourse and its importance to Frau M's psyche, etc... embodies a form of instrumental rationality, as defined in this thesis, without any kind of concrete financial means to actually participate in society (ie. through start-up subsidies or sanctioning to induce structural coercion) motivation must rely on communicative action emphasising the social norm of work. Although confronting normative reasoning about the importance of social integration is clearly preferable to sanctioning and complete market exposure for Frau M, we must acknowledge that *waged labour is communicated in moral terms* with those dependent on welfare.

However, whilst there may be a reasonable argument that work is important for everyone to achieve the psychological and schedule stability necessary for social participation, arguments resting on the necessity of social well-being depend on the character of society as much as the individual – thus rendering Frau M's perspective change necessary only insofar as she confirms the norms of German society in her daily behaviour. It is easily conceivable that only 50 years earlier Frau M may be encouraged to find a husband to provide subsistence

rather than working for a wage. Or, perhaps Frau M was socialised in a different culture which clashes quite strongly with this social norm, as the following passage indicates:

“There are naturally also cultures where work perhaps doesn’t play such a big role, how we in the Western world have come to understand it. For example, there are now here, after the opening of borders to Romania and Bulgaria, the Roma are now pitching camp (*aufschlagen*), at the moment, *en masse* one must say, for whom work plays absolutely no role” (A18).

Social integration at any given time is thus premised on particular social norms and *not* universal facts – with those norms embodied in a legal text very much exclusive to the German experience. Regardless of this AVs interpretation of the Roma’s work ethic, that such a discourse could appear discriminatory or affirmatory in any case confirms the shifting moral importance of waged work in a given cultural context. By considering this passage as either discriminatory against the Roma, or an affirmation of the superior Western work ethic, we indirectly affirm that waged work *is* a positive social norm to which everyone should aspire in both interpretations. In short, the importance of work is *not* a universal fact.

Beyond a work ethic itself however, another AV responded in a manner similar to the practical reasoning behind Habermas’s (1989) conception of lifeworld development, appealing to an egalitarian form of individual responsibility in a community which transcends specific cultural norms:

“...one appeals to their own sense of responsibility, and say if she can earn money alone, if she can be economically active, why does she actually do it? It cannot be that I go and say I will simply do nothing and let everyone else pay. Most get this very well when speaking with the people, that what I mean is ‘what would your friends say, if we must pay now, ok everyone of you all must

pay 20 Euros per month’, emphasising the money, ‘and then I’ll just stay at home. And your 5 or 10 friends are now working for you. What do you think if your friend said that to you?’ Then they come to the table themselves and say, ‘yes, actually I think that would be bad, and I would like to get angry with him.’ And so I wrangle out a translation that one must say, ok, the taxpayer wants you not to stay at home also, that you must do something yourself also” (AV17).

This sense of responsibility, translated from an immediate interaction between friends to a societal level between taxpayers and welfare recipients was considered quite effective in practice. As aversion to Minijobs is common among all welfare beneficiaries – something confirmed repeatedly when answering this question – that this form of reasoning has been effective perhaps suggests a universal norm of reciprocity beyond the German lifeworld. Nevertheless, for welfare recipients in dependent social positions, either through an appeal to their work ethic, or an appeal to their sense of social responsibility, we can infer an initial observation that *the Hartz Regime has intensified the residual and conditional aspects of welfare support*, more in line with what Mau (2003:38-40) calls “obligating reciprocity”. From the point of view of those subject to these terms, the Hartz Regime thus 1) considers wage labour integral with an individual lifecourse; 2) wage labour is a moral activity above an instrumentally reasonable activity; 3) wage labour is a moral obligation in German society for those dependent on welfare – regardless of their cultural background.

Each action orientation thus confronts a Hartz Regime premised on this work obligation, with the remaining focus whether or not the enforcement of this norm is universally applied to differing action orientations, through the incentive structures available at the Jobcenter, and different positions in the social structure, through equivalent legal definitions and moral duties. We can now turn to what AVs would actually suggest to Frau M when sitting

at the Jobcenter, which are scaled from positive to negative according to the implied preference of the action orientation.

II.A.2 – The Financial Incentive: Support of the Start-up (EG) for Frau M

Funding for a start-up is the most positive and instrumentally rational policy option available to AVs when confronted with a marketised action orientation. First, this programme creates a financial incentive through granting money above the basic ALGI payment for a number of months whilst the client founds a business and attracts customers – presumably leading to sufficient profits to maintain financial independence on the open market. However, only 1 of 22 convincingly supported Frau M.’s desire to open her own business, describing the logic in the following a manner:

“I also find an EG a theme. She writes she would like to work, and that was her dream, but the next sentence is then, ‘but it will remain a dream.’ That I made a note of. [imperceptible]: why? Why should it remain a dream when she can still implement (*umsetzen*) it? One could still try it. If it is the best way for her, and here I understand myself, as an AV, as someone that brings together the interests of clients and the general public as far as possible. And the general public would like simply that Frau M earns her own money. And Frau M. apparently would like to work, most of all to be self-reliant/self-employed (*selbstständig*) – why not support it if it works?” (AV17)

Although this could be interpreted also in a normative manner, that by supporting her start-up Frau M. becomes less dependent on the state thus fulfilling the norm of self-reliance, this passage is distinctly instrumental when compared to others. This passage represents the most explicit use of positive instrumental reasoning of all AVs when confronted with Frau M. – and

indeed the only which considered an EG genuinely realistic for her. Although a handful of others also considered the EG possible, they were marked by a number of initial requirements such as more education and further work experience. In this case however, because the AV is actually willing to explore the means to fulfil her ‘dream’ of founding a start-up, as well as describing the AV role one of forging compromises between evidently dispassionate interests of Frau M. and the general public, we find a case where the AV instrumentally facilitates the marketisation orientation.

On the other hand, another AV expressed a rather different view on Frau M.’s start-up dreams, effectively vetoing the notion:

“in ALGII, the rules [for EGs] became much tougher, because in the first years after 2005, one was quite generous with it, supporting people that wanted to make an EG, and it was quite often that these people even eventually failed with the start up, and [were] again unemployed and had debt in addition to no start-up. And now one has much tougher criteria/standards (*Maßstäbe*) than before [when] the Jobcenter supported self-employment. And with her [Frau M.], with certainty it would not be supported, because she has no concrete project, she has no business plan, she has also no aptitude (*Eignung*) because she has never managed a business” (AV1).

Subsequent to these rather more practical considerations regarding the plausibility of Frau M. actually succeeding in her dream, a general sentiment distinctly normative in character was more widespread regarding Frau M. – with both negative and positive expressions of this reasoning observed.

II.A.3 – The Positive Moral Incentive – Education and Social Integration

Much of the positive normative reasoning communicated by AVs was exhibited in the fact and norm section on work-life described earlier. However, in the context of conversation about Frau M, much of the moral incentive structure at use tied perspective changing with capability enhancement. Closely following the Four Phase Model, this is described as follows:

“I would work out with Frau M., in the consultation, some goals. Regarding that, I would in principle first consider her resources. What has she already done in life?... then what kind of skills she carries... Then we can eventually test her here yet again with the work psychology service (*Berufpsychologieservice*)... Then we can talk together about her work experience, and then enter her skills into the Profiling. Create a record. Then we ask what’s there for an action-plan (*Handlungsbedarf*). That means: poor diploma, no apprenticeship even, known frustration in childhood and work experience, and I would clarify to her, on record, there is a discrepancy. She would like to work little but earn a lot. I would talk with her about changing perspectives, ‘reframing’ [*using English term*] and perhaps work out a new perspective. After clarifying this discrepancy, and determining motivation, then we’ll see.” (AV14)

With a perspective change in Frau M accomplished, the majority of responses immediately focused on her lack of education. I have therefore also included educational advancement as a form of positive moral incentive despite the likelihood Frau M would make more money over the lifecourse in a highly skilled position than as a small entrepreneur. This is justified through two general themes: 1) educational advancement in the context of Frau M; and 2) capability enhancement as understood generally.

Regarding the first, although the specialised apprenticeships unique to the German educational system have a distinctly instrumental character, because Frau M’s direct interests

are founding her own business and making money – potentially opposing goals – further education becomes an instrument of social integration through altering her perspective and status in the socio-economic system. Apprenticeships and further education allow Frau M to advance her status beyond the *Hilfebereich* – the low-skilled status of those without formal qualifications – and thus advanced certifications begin to transcend purely instrumental value into a culturally-defined status hierarchy. Regarding the second, although I have already critiqued the operationalisation of capability enhancement into the social investment perspective, Nussbaum (2000:83) argues “that certain human abilities exert a moral claim that they should be developed”, making individuals capable of being “truly human” (Nussbaum, 2000:82) across cultural contexts.

The normative basis of capability enhancement through education is also sanctified in the German constitution as a right, further bolstering the notion that formal certification is a step in the socialisation process into the German lifeworld more than an instrument of accumulation. Its importance for social integration is described below:

“Because she is relatively young still, 24 years, I would recommend she does an apprenticeship (*Ausbildung*). She has no certification (*also Ausbildung*), but should, could, do an apprenticeship either as a shop-assistant, or also accomplish it in a bakery, but she had said that bakers must get up early and that is not for her. I would anyway recommend an apprenticeship in a sales department, and until the next consultation, she may contemplate if she wants to do an apprenticeship, and when yes, which field. If she says no, an apprenticeship doesn’t interest me, then we must try to place her relatively quickly into a helper’s occupation (*Hilfetätigkeit* – equivalent to occupation within the *Hilfebereich*). Yet, particularly regarding sustainable integration, where she must work for a relatively long period, until she

comes to pension, it would be sensible anyway to get certification – according to German law” (AV3).

Obtaining some kind of apprenticeship is a right according to German law, with certifications following apprenticeships for even the most minor positions such as selling clothes. Indeed, one AV found it incredible that people were allowed to sell used cars without any kind of certification in the USA – something we discussed after the recorded portion of the interview. Of course, an American may find the notion that a used car salesman needing a certified apprenticeship laughably absurd – with this different interpretation clearly emerging from socio-cultural norms suffused into economic relations and institutionalised in the labour market system.

In Germany, the apprenticeship was originally meant to lead to recognised track in the lifecourse, as this AV described when contrasting with a university degree:

“From my perspective, Frau M is still very young, she is 24 years old, and she has not completed any higher education (*Studium*). However, she has done a below average German *Abitur* – that one must look at. In this respect, we must actually consider higher education, asking her if higher education comes into the picture. If yes, which higher education becomes the question, and surely also it’s important to ask how she would finance these studies... in the background of every form of study is the question of finance. How can I finance my higher education? The other alternative for Frau M would surely be that she should consider completing an apprenticeship in the Dual-System in Germany. To complete an apprenticeship in a recognised certified occupation (*Ausbildungsberuf*), therewith also for the future, so to say, she can have a secured permanent occupation (*sichere Stamm*)” (AV13).

In other words, by entering into higher education, or at least apprenticeship training, Frau M is able to acquire training and certification for a specialised occupation, which will provide a segue into the permanent workforce. Thus, in many ways, the instrumental value of education is privileged during communicative action, but this requires the increasingly dubious claim that permanent work is the end-result of this instrumental action. Instead, education becomes a means to fulfil the social norm of work more than a means towards facilitating her own action orientation. This general reasoning is very similar to the main thrust of the SIP, implying that a young person given the educational and training capabilities will obtain a full time job – regardless of their orientation towards work. Although rarely explicated as such, this type of logic is reminiscent of the classical post-war notion of specialised training leading to life-long career trajectories at middling skill levels. Considering integration through apprenticeship was so prevalent in discussions over Frau M, I can confidently suggest that *the industrial work norm of specialised career employment is prevalent among Jobcenter personnel when communicating with younger clients suited for further education*. Following this observation, we must ask: is this simply to fulfil a norm of social integration based on the German right to *Ausbildung*, or a concrete measure ensuring a role in traditional specialised employment?

To answer this question, we must examine the response to someone who followed this ideal in the past, namely, Frau S. Although we shall come see how this lifecourse trajectory is perhaps not so prevalent as suggested at the Jobcenter, the norm instilled by this long-standing educational system affirms Rothstein's (1998:138) notion that institutions – in this case an education system – have a “norm-setting function” which is reproduced in discourse at the Jobcenter regardless of actual probabilities of cause and effect. Before further investigating this however, I will first elaborate another mode of communication which Frau M confronts at the Jobcenter: negative normative reasoning and the negative moral incentive structure.

II.A.4 – The Negative Moral Incentive – Duty and the Law of Working Life

In addition to the importance of properly learning working life described in II.A.1 – where getting up early and going to work is the first lesson she needs to learn – Frau M frequently faced her *duties* as stipulated in the underlying language of the Hartz legal reforms to SGBII. The actual legal text was frequently cited to remind Frau M that work should be her priority and that she is obliged under the law to think and behave in this manner when receiving Hartz IV. This is usually manifested in the following manner:

“what the society demands (*fordert*), [is] that one must put forward everything (*alles... setzen*) to end their needy status (*Hilfsbedürftigkeit*), or at least to reduce it. Thus, it is even also reasonable (*Zumutbar*) to include Minijobs and in so doing we change [the legal situation] of [being in] needy status (*Hilfebedürftigkeit zu verändern*), and perhaps also stand on one’s own two feet (*Fuß zu fassen*) and receive a better paid occupation in the first labour market” (AV7).

This passage contains numerous explicit references to the wording of the law, particularly the concept of ‘reasonable’ (*Zumutbar*) as well as *Fordern* – in the very title of the Hartz reform to SGBII. Indeed, the speech act of ‘doing everything reasonable to reduce the need for benefits’ was exceedingly common when dealing with Frau M and indeed each vignette. With the subsequent steps in the Four Phase Model premised on a contract stipulating expected behaviours such as making job applications and accepting reasonable positions, it also forms the basis for legally sanctioning ‘bad’ behaviour. Consequently, one AV described Frau M’s options as such:

“ALGI is an insurance benefit. With that I have worked at least a year, became unemployed, then there is the unemployment insurance disbursement that I receive. That is SGBIII. With SGBII there are no such attendant possibilities. I refuse something, ‘badly paid? No, thanks?’ No more money from us. That means if this work is refused, she would be, so to say, audited according to Paragraph 31 if a sanction would be imposed. Reasonable work includes all circumstances. There are small exceptions, high-need parents, dependent children under age 3, or work that I can’t do, because for example I am a trumpeter and need my hands, and then I cannot build with stone, [or] mining” (AV10).

I have considered this allusion to the law as reflecting the negative moral incentive of legal duty, etc... However, unless explicit sanctions were mentioned in the case of Frau M, I did not consider her facing outright negative instrumental reasoning, with the above quotation the harshest language Frau M confronted of all AV interviews. Consequently, in combination with the duty to consider Minijobs reasonable employment, the legally-defined threat of sanctioning again enforces a moral obligation to work – since work does not actually pay substantially more than welfare. The law in SGBII is explicitly formulated as such, stating that welfare beneficiaries have the duty (§31) to enter one or another type of employment as defined by the integration agreement formulated after profiling (§16a-h), with reasonability defined by the law on reasonableness (*Zumutbarkeit*) (§10).

Most AVs seem quite well-versed in their particular field of the law and various fragments of SGBII were explicitly cited during interviews. In these contexts, it became clear that the legal text is often the most draconian language a welfare beneficiary may encounter when receiving a benefit from the Jobcenter governed by SGBII, and indeed provides AVs the ‘stick’ of activation along with the ‘carrot’ of capability enhancement.

II.A.5 – The Coercive Incentive – Sanctioning Frau M

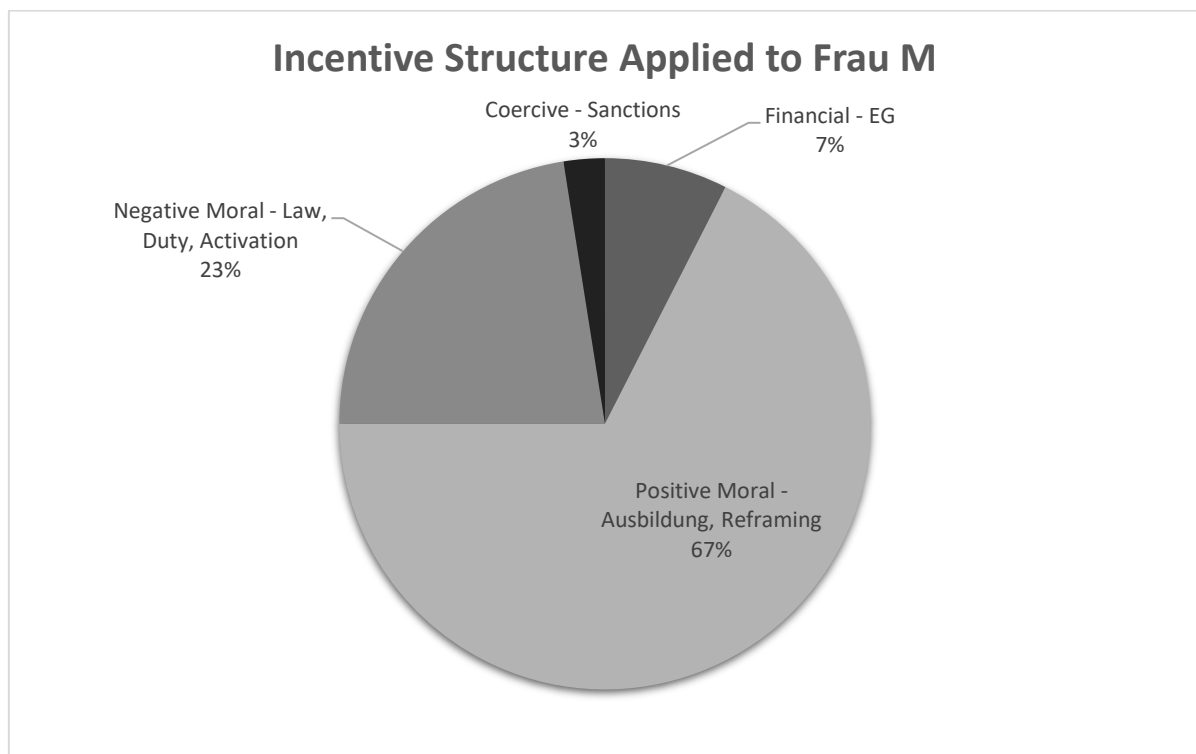
Because no AV explicitly suggested they would sanction Frau M, however the one quoted above mentioned sanctioning as a possibility, the marketised action orientation as written faced only a partial communicative act which could be categorised as a coercive incentive structure. In the interview above therefore, I interpreted the AV to be communicating partially within the negative moral incentive and partially a coercive incentive through the threat of sanctioning, leaving Frau M facing only .5 of the 20 AVs – those willing to answer questions on Frau M – supporting the coercive incentive structure.

II.A.6 – Summary of Incentive Use towards the Marketisation Action Orientation

To summarise the incentives applied to the marketised action orientation as manifested in the Frau M vignette, I interpreted only two AVs as having a genuine commitment to helping Frau M on the path to market autonomy via the EG – although only one fully, whilst the other considered this an option following further education. The majority of those willing to answer for Frau M focused on her need for further education or apprenticeship. However, many AVs expressed multiple options, requiring my personal interpretation into which was more favoured – with three of those generally favouring activation in the *Hilfereich* alongside further education, thus presenting two observations for each form of communication. Because this section illustrates the type of communicative action confronted at the Jobcenter rather than explicit scoring of which incentive is at use, these observations are counted in the number of overall observations, which is illustrated in Chart 6.1 below. Only one vacillated between activation and outright sanctioning. In the tables below, I indicate the percentage of AVs willing

to employ the various incentive structures, with some having their score split between two options.

Chart 6.1 – AV Approach to the Marketisation Action Orientation



After defining how the specific options available to AVs when responding to each vignette – most of which were gathered inductively – and then categorised according to the incentive structures defined in the theoretical framework of chapter 4, as demonstrated above with Frau M, I will code each on a 1 to 4 scale to establish whether parity of participation was achieved between action orientations. First, however, we must turn to Frau S, keeping in mind how the traditional career trajectory through specialised education has been promulgated as a positive social norm and path to social integration for Frau M.

II. B. – Frau S

Although many AVs advised Frau M to pursue further education to enable a certified and specialised occupation, presumably leading to a stable full-time job, when confronted with Frau S, a contradiction began to emerge. The contradiction between Frau M and S resides at the highest level of the epistemic framework: the distinction between fact and norm. Although Frau M is encouraged to pursue specialised education or training in a career path as a positive source of social integration, achieved through conforming to social norms surrounding working life, if actually done, she becomes a powerless non-agent subject to ‘factual realities’ beyond her control. In effect, Frau S did precisely what was encouraged in the case of Frau M, thus embodying the results of the positive normative reasoning applied to Frau M – except forty years earlier. I first explored this distinction through inquiring how AVs judged Frau S’s life trajectory through a direct question on social justice.

II.B.1 Facts and Norms for Frau S: Capitalism and Fate

I posed a general question regarding the Frau S vignette’s story: *is it just that Frau S is now dependent on ALGII (Hartz IV)?* This question produced numerous answers which reflect common forms of reification prevalent in everyday discourse at the Jobcenter – aside for one rather cynical response stated as follows: “that is capitalism. It has nothing to do with justice [laughter]. ‘Capitalism is the exploitation of human beings through other human beings. In socialism, it is exactly the opposite’²⁵” (AV3). In short, this AV recognised that Frau S’s lifecourse was shaped by the capitalist system rather than factual reality, but was resigned to shun any emancipatory approach to greater social justice. Instead, as quoted below, this AV

²⁵ This is formulated as: *Kapitalismus ist die Ausbeutung des Menschen durch den Menschen. In Sozialismus, es ist genau umgekehrt.* This appears to be version of the quote from John Kenneth Galbraith: Under capitalism, man exploits man. Under communism, it’s just the opposite‘

approached the question of social justice from a comparative perspective – arguing it could be worse in a different system.

A very common approach to the justice of Frau S's story stated that because Hartz IV exists in the first place, unlike in comparative cases like the USA – mentioned multiple times as a negative counterexample – it was just. This can be called *everyday comparative justice* – which manifests itself across cases in which the Hartz Regime is interpreted positively, or across time within the German context, in which the Hartz Regime is often assessed negatively. The former is exemplified by the following:

“Because she had paid into social insurance also for a long [time]? It is just in that respect. In other countries, such a thing doesn't exist at all. In the USA for example, it would be so that she probably must live on the streets, because such a thing we have in ALGII is not even existing. And in the solidarity-community (*Solidaritätsgemeinschaft*), also myself, who has a job now, also pays into the insurance, and part of that money will also come around to Frau S. Therefore, it is in my eyes just and also an advantage for her, because it could also be much worse” (AV3).

‘It could be worse’ is the main trope of everyday comparative justice – and indeed wondering whether it could be is an underlying question of this thesis. Before establishing a critical framework for comparing these different countries in terms of social justice however, whether or not this comparative assumption is valid remains for future research.

Beyond comparative validity however, in addition to the “obligatory reciprocity” (Mau, 2003:38) to the taxpayer, the above quote suggests that how the social system is paid for via Bonoli's (1997) distinction between a Bismarckian social insurance and a Beveridgean basic welfare is also part of the lived experience of individuals. Contrary to the AVs understanding,

the USA has a limited version of both forms of support. How these two forms affect subjective states of recipients was precisely the focus of Soss's (2000) work, in which he found those with rights to disability-based unemployment insurance had more self-respect than those dependent on social programs – not unlike the difference in how clients' perceive ALGI and ALGII.

In this comparative context, another common answer, expressed as follows, was sympathetic to Frau S considering the system prior to the Hartz Reforms:

“If one now compares, that is, yeah, before the introduction of ALGII there was, yeah, ALGI and then *Arbeitslosenhilfe*. And *Arbeitslosenhilfe* was, in the case of Frau S, would be quite a bit higher than now with ALGII. And for her that would be better, but I would not use the word ‘more just’ (*gerechter*) for that” (AV8).

Because *Arbeitslosenhilfe* would be better materially for Frau S, this AV recognised its importance for her, however the disassociation between individual benefit and ‘justice’ expresses two key dilemmas in questions of social justice: 1) whether or not people should be treated equally or according to their particular circumstances; and 2) whether ‘the way of things’ is a factual circumstance individuals must adapt to beyond any question of justice, or whether it results from a distribution of individual and social responsibilities.

These dilemmas open up a perspective on justice which many AVs also articulated when confronted with Frau S: that justice is a subjective term with a relative meaning. What we could term *everyday subjective justice* tends towards analysing justice through defining the borders between 1) individual responsibility and 2) facts and norms, history and politics beyond individual control. The paradox and dilemma is expressed by the following AV:

“What does that mean, is it just? That is simply the way of things (*einfach der Lauf der Dinge*). I find – my personal opinion is that one should already differentiate that. Someone had worked their entire life and paid in [to the social

insurance system], or someone had lived on Hartz IV their whole life. My personal perspective is that the lawmaker should better differentiate. But... [Question: In this situation, for example? When she had worked in a firm for 25 years and then... that is a problem with the law?] That is simply Germany. We have the Basic Law, everyone in the Basic Law is the same” (AV4).

In this understanding, history and the law become external forces and of course it would not be appropriate for the AV’s personal opinion on the law to enter into the calculus when sitting across from Frau S at the Jobcenter. Thus, the law becomes a constraining boundary for on-the-ground practitioners and might as well be reified as a fact of the lifeworld. That Frau S subjectively experiences injustice, and the AV sympathises with her, is irrelevant because those circumstances are beyond individual control. Indeed, many AVs used another meaning-laden word regarding Frau S’s life story: *Schicksal* – the German equivalent of fate, or destiny.

“Law is not just. (*Recht ist nicht gerecht*),²⁶ it is fate (*Schicksal*). One can – [what does ‘fate’ mean?] Fate! She had bad luck (*Pech*). She was a long time in a firm, it was bought out, and went bankrupt... exactly. Massive personnel loss and it went to a foreign country. That is bad luck” (AV9).

This relegation of the justice question to unassailable realities of history presents a question about the first dilemma of everyday subjective justice: who is responsible for our inability to predict the long-term future? Should we seek collective measures to withstand the forces of historical change in environment, technology, and global politics, or increasingly apply these risks to socially-differentiated individuals? There are some who consider the individual responsible, like the small minority of AVs who were rather critical of the life history of Frau S – which will be explored in the negative moral judgment below. At this point however, the

²⁶ There is a colloquial German saying: *Recht ist nicht Gerechtigkeit* (Law is not justice), from which this quote appears to be derived.

contradiction of everyday subjective justice becomes increasingly clear: 1) it assumes individuals are always responsible for the consequences of their choices; yet 2) it reifies the capitalist social system, thus relegating miscalculated predictions of the future, as well as economic and political transformations, as a mere consequence of fate.

The dilemma between individual choice and equal treatment is discussed extensively in Rothstein's (1998) work, yet his solutions of choice between welfare services – premised on the right to exit – combined with a need for public financing of these multiple services (Rothstein, 1998:198) is perhaps useful when discussing maternity wards or primary schools, but hardly realistic for Frau S's situation. With Rothstein's reification of market principles allocating labour, negative outcomes such as Frau S's are again relegated to either exogenous fact or individual responsibility. Like Giddens's unloading of all social risk onto individuals and casting it as a form of participatory politics of democratic choice (Ryner, 2002:20), the capacity to choose different forms of welfare or unemployment insurance fails to overcome the fundamental problem highlighted by an orientation towards social protection: that choosing an educational path, social programme, or life plan in an historical moment fails to fully appreciate that individuals actually *cannot* be held fully responsible for the outcomes of their choices. Social protection means protection against the forces of history and hierarchy, a collective means for establishing continuity and predictability for individual lifecourses in the face of economic and political changes beyond their control.

Similarly, when referencing the SIP, the notion that capability enhancement early in life will lead to social integration until retirement neglects our inability to predict the future in 25 years. With a skilled position in industrial manufacturing, Frau S likely followed the most stable and prosperous career track available at the time. Yet, how could Frau S have known postindustrialisation, German reunification, globalisation, and outsourcing would effectively destroy the functional value of her capabilities when developing them in the early 1970s?

Although capability enhancement increases the range of options in youth, by Frau S's age, social investment is hardly a rational policy – particularly when we simply consider the point of view of firms.

Not only is Frau S. likely to learn and re-train somewhat slower simply due to age or illness, but she wouldn't be attractive to employers anyway – something explicitly mentioned by both AVs and employers when confronted with the Frau S vignette. More specifically, whilst retraining and life-long education are championed by social investment advocates, Hemerijck (2013:285) does not offer any solid evidence it prevents firms from effectively forcing early retirement on aging workers. Whilst it may adapt those aging workers to post-industrialised skill sets, it cannot overcome age discrimination in hiring practices. Contrary to Hemerijck's (2013:386) assertion that "if workplaces can be made more attractive to older staff, the trend towards an exodus into retirement will wane," my research suggests the determining factor is not worker preference at all, but employer preference. This seems so intuitively obvious that its neglect in Hemerijck's work – or indeed most prominent ALMP advocates (see Giddens, et. Al 2006) – appears an ideological choice more than an analytically sound assumption. Job conditions are not preventing older staff from taking work because, at least in Germany, they can be forced into it via threats of sanctioning if the AV simply follows the law. However, it is unlikely to lead anywhere, since the everyday knowledge of the AV suggests that older staff are simply unwanted altogether. Thus, an AV that actually worked with clients over 50 remarked:

"It is not just [that Frau S is on Hartz IV]. I have cases here where someone at 64 or 63 comes in because they were let go because they are too old for the firm. It now stands as such and their whole life is destroyed. Or someone at that age comes and has a chronic illness, or just separated, I don't know, there are so many. I say that life gives no regard for age (*Leben nimmt auf das Alter kein*

Rücksicht). One expects that everything difficult has, I'd say, passed by 50 or 55, and after one has their peace, and prepares themselves for retirement. And that is not the reality. The reality is otherwise" (AV15).

Like Hemerijck's reification of political trends in employer strategy as exogenous impact factors, this indignant AV nevertheless considers being let go due to age somehow reflecting reality rather than decisions by human beings in various social positions. Skill-sets may objectively decline in use value, but the social responsibility to ensure aging workers reach retirement after years of loyal service is clearly dependent on political and individual decisions on the distribution of social responsibility.

From a perspective founded on Critical Theory, arguing that luck, fate, and reality have produced Frau S's situation absolves all decision-makers from social responsibility, effectively reifying decisions made from the top of social hierarchies as facts of reality. More importantly, by reifying the contemporary capitalist system of capital and labour allocation, it eliminates the space where the politics of social protection operates: in changing the social system to facilitate the norms of stability, reciprocity, and status preservation. As we discuss those welfare dependents interviewed in this study in the next chapter, one of whom identified directly with Frau S's story, we will come to find that the rights and duties of one social position towards another social position – and the form of reasoning in relations between them – not only shapes the intensity of communicative acts about personal and collective responsibility, but whose decisions should be regarded as fate and fact, and whose decisions are subject to moral scrutiny under socially-imposed definitions of individual responsibility.

For now, we must turn to the incentive structures applied to the Frau S. vignette. In so doing, we will begin to determine whether the second principle of justice – parity of participation for a plurality of action orientations – occurs by comparing Frau M with Frau S,

before finally turning to Frau E. With Frau S, we must account for two main elements capturing the social protection action orientation: her history as a loyal, well-paid, and ultimately abandoned worker in an industrial setting, and her bitterness and resignation following this result – a bitterness exacerbated by declining occupation and pension statuses. Frau S is therefore oriented towards receiving what she considers her due from society – namely, non-activation into the precarious sector, recognition for her previous work, and a full pension.

II. B. 2. – The Financial Incentive: Leaving Frau S alone

When examining the best possible option for Frau S, barring a significant policy change in the Hartz Regime, reforming the system to reflect a socio-normative order more sympathetic to social protection, she should simply be left alone. Although two more years of Hartz IV is not ideal for Frau S, it allows for receiving her full pension whilst avoiding an enforced adherence to the social norm of work, a norm she adhered to in the past and felt betrayed in doing so. In this context, Frau S's profile is one of 'support' in the Four Phase Model, explained as such:

“I think it would be support at this stage due to the reason of long-term unemployment. On account of her age, the experience that we have had here, it is so that it surely is helpful if she again received special support, simply because the labour market is such that the older the employees are, the more difficult it is for employers to recognise potential, especially if someone has been very long unemployed. I think that, again, a Project 50-Plus or another re-integration measure could additionally help Frau S to get on her own two feet” (AV11).

In my analysis, this mentioning of ‘support’ (*Unterstützung*) and leaving participation in a *Maßnahme* open to her own decision, effectively leaves Frau S to her own devices. In so doing, Frau S is financially supported at her current level without taking any permanent penalty, beyond what she has already lost in income through long-term unemployment. As was already mentioned however, many AVs opted instead for a *Maßnahme* if available.

II. B. 3. – The Positive Moral Incentive: *Maßnahme* for Frau S.

Like capability enhancement and the presumably socially-integrating process by which education helps Frau M, Frau S can get ‘back on her two feet’ by participating in a 50+ measure to assist the aging unemployed reintegrate into working life. Therefore, I asked if Frau S needed a ‘re-integration agreement’ (*Wiedereingliederung*) which indicates profiles which are meant to be working within six months per the Four Phase Model. One AV remarked:

“In principle, she needs no re-integration agreement. What she needs at the moment are measures (*Maßnahmen*) to support her motivation, because she is mentally depressed, and I mean at the moment she simply cannot stand on her own two feet in the labour market. She actually needs help, also psychological supervision I would think for now, and with the measures, they are very slow to bring [her] into working life again, getting up early, working through the day and go to bed tired in the evening. But with her clothes and this social withdrawal hanging over her head, I would recommend a motivation supporting measure to her, and gradually try to begin again in the labour market” (AV3).

Like my description of many physical spaces inside Jobcenters reminiscent of a clinic designed for healing, this AV’s response to Frau S is generally beyond what is necessary according to the law. Instead, as was revealed in many interviews, a draconian emphasis on duty and one’s

legal obligations enforced by the threat of sanctioning, is often counter-productive to the relationship between AV and client. Instead, many AVs take on the hope that a client will follow the example of another success story, as the following AV recalled:

“I also already had people – perhaps not over 60 but instead at the end of their 50s, whom, for example had worked in a senior home through this work opportunity programme (*Arbeitsgelegenheit* – one type of *Maßnahme*) and thereafter had received a work contract. Afterwards, they only needed a bit of Hartz IV, and were again motivated and happy. They could again work, but without this work opportunity programme, then they would have perhaps not got to know this employer and they would not have come into this position at this age” (AV14).

In short, many AVs see themselves as much as social workers attempting to help people out of difficult social and psychological situations via the re-integrating into society through work. Like the various positive normative reasoning applied to Frau M’s aversion to Minijobs, many AVs considered Frau S in need of work for her own well-being. I have therefore considered this category a positive moral incentive in much the same way capability enhancement precipitates full participation in society, so does mild public sector work for minimal wages among those who have already spent their lives working.

On the other hand, some AVs expressed a more system-oriented view on the *Maßnahme* – as it requires public money to support. On AV explains:

“I would first clarify how long Frau S could work still in the first place. Because a 50+ *Maßnahme* is, yeah, always relatively expensive. [For the Arbeitsagentur?] One receives the money and one receives additional money from the BA, that is, I would think [pause] actually a totally bananas decision.

[Depending] on how much money we still have left, then one can bring someone into a *Maßnahme*. In that case, I think this would be one to do it, if she wants, if she doesn't want, it is pointless. If she wants, yes. However, if now, for example, there would be too little money, and one must make a very difficult selection for whom does a 50+ *Maßnahme*, then she would probably fall out of favour at 63 because the time she can still work is simply too little" (AV1).

Although 10 of 19 AVs suggested Frau S should enter a *Maßnahme*, most premised this decision on the availability of funding. It therefore is not a concrete option for AVs in all circumstances. As the AV above describes, this money is usually set aside by various levels of the BA hierarchy and distributed through programmes with specific agendas – a longstanding agenda being re-integration of aging workers into the labour market. Nevertheless, the steering media of the social system, funding, is determined by its functional value – and Frau S is close to the end of her functional value for the production system. As we shall see in the following chapter, this can have rather profound effects on the individual – particularly when wage labour is understood as a moral obligation precisely as the Hartz Regime imposes.

II. B. 4 Negative Moral Incentive: Moral Judgment or Legal Duty of Early Retirement

There are two distinct trends of negative moral incentives at play in the case of Frau S: judgment that she does not try hard enough and should be activated into any kind of work, or the legally-binding requirement of early retirement with reduced pension if she isn't activated into work. The first was a minority of interviewees, although reminiscent of a particular profiling strategy such as the following characterisation of Frau S's recent past as a motivation issue:

“She is frustrated. Here it states she had participated in a measure to avoid sanctions. I doubt if she really was motivated... I see a problematic here, where she perhaps was totally not motivated, and would not become motivated, had even blocked [becoming so]. And then she had lost quite a lot of valuable time to come into the labour market... When I get to a certain age, naturally I must then give it a bit more gas, show more enthusiasm towards the labour market, and then something will come in” (AV14).

In this form of reasoning, Frau S was not motivated enough, and, as another AV pointed out, “she has been unemployed for 16 years and I find in that time she could have anyway found something – perhaps not a management position or in her field, but something” (AV19). Unlike those who were sympathetic to Frau S due to the series of challenges accompanying her life, these set of responses held Frau S individually accountable for her lack of motivation and adaptation to the presumably exogenous change in reality.

Beyond the judgment of her blocking further employment after losing her career, a few AVs did consider Frau S worthy of activation beyond a *Maßnahme* and into an easier Minijob – also considered in this case as a negative moral incentive. However, this was usually couched in the conditions of the job and, more importantly, the outcome of the application for early retirement. Thus, although negative judgment was occasional, the above negative moral incentive was superseded by calls for early retirement – an apparent legal requirement which only some AVs required Frau S to follow. In simple terms, one AV explains:

“Basically, Frau S is 63 years old and had paid into the pension system for 25 years. That means grounds for a pension claim (*Rentenanspruch*). The pension claim precedes the claim for ALGII. That means that pensions are a

preferential benefit claim before ALGII. That means at 63 a woman with us will be requested to submit a pensions-disclosure (*Rentenauskunft*)” (AV4).

This straightforward narrative defines age and legal duty as an explicit procedure in which Frau S will have to apply for reduced pensions. In rather more technical legal language, the same conclusion is described as follows:

“Following Paragraph 53a, she is not unemployed. If she, after the shift to the 58th year of life, has not received an offer [of employment] from us for one year. 58th year it ends (*verendet*). That is paragraph 53a. That means that she now receives nothing more from us, because she may come into [a] unemployed position (*Arbeitslosstellen*). Ach, no! Not unemployed, work-seeking (*Arbeitssuchend*). She is then no longer unemployed. And paragraph 12, preferential benefits, at 63, she has to apply for a reduced pension... She looks likely to receive not a bad pension, so it’s not so bad” (AV10).

The first part is actually a description of the switch from ALGI (unemployment insurance) to ALGII (basic welfare) which occurred many years prior for Frau S – but was the context in which this particular AV worked. It thus suggests a slight misunderstanding since Frau S is already on Hartz IV. However, revealing §53a, as mentioned above (FN#15), suggests that the section of the law entitled ‘statistics’ also applies to how AVs deal with aging clients. §53a explicitly states that “employable beneficiaries” (*Erwerbsfähige Leistungsberechtigte*) which have not worked in a job paying into the social insurance system (*svpB*), and have been on ALGII for at least one year, no longer “count” (*gelten*) as unemployed.

The legal text thus suggests that even those lawmakers designing the Hartz Regime did not want the aging unemployed reflected on national unemployment statistics, implicitly recognising they were unlikely to get a job – even if profiled as capable of working. Hence,

Frau S will receive a pension reduced by 6-7% depending on the outcome of her claim. More importantly, the previous five years were spent in statistical limbo – neither unemployed, nor forced into early retirement. Although uncertain at this point, all indications from follow-up research on this question suggested that this five-year period of Hartz IV remains legally undefined and therefore at the discretion of local Jobcenters – which is exceedingly important for those who have accumulated assets during their working lives but suffered the evidently common problem of a late-career layoff. Although recognised by the lawmaker as unlikely to find work after 58, does Hartz IV remain means-tested (SGBII§12) until forced early retirement? A combination of career loss, unemployment insurance payments shifting into basic welfare for 5 years – which potentially also entails asset stripping – topped off by reduced early retirement, all the while fatalistically removed from unemployment statistics, suggests a serious breach of the ethics of recognition advocated by Honneth (1995:Ch.9) in the Hartz law itself.

II. B. 5. The Coercive Incentive: Sanctioning Frau S

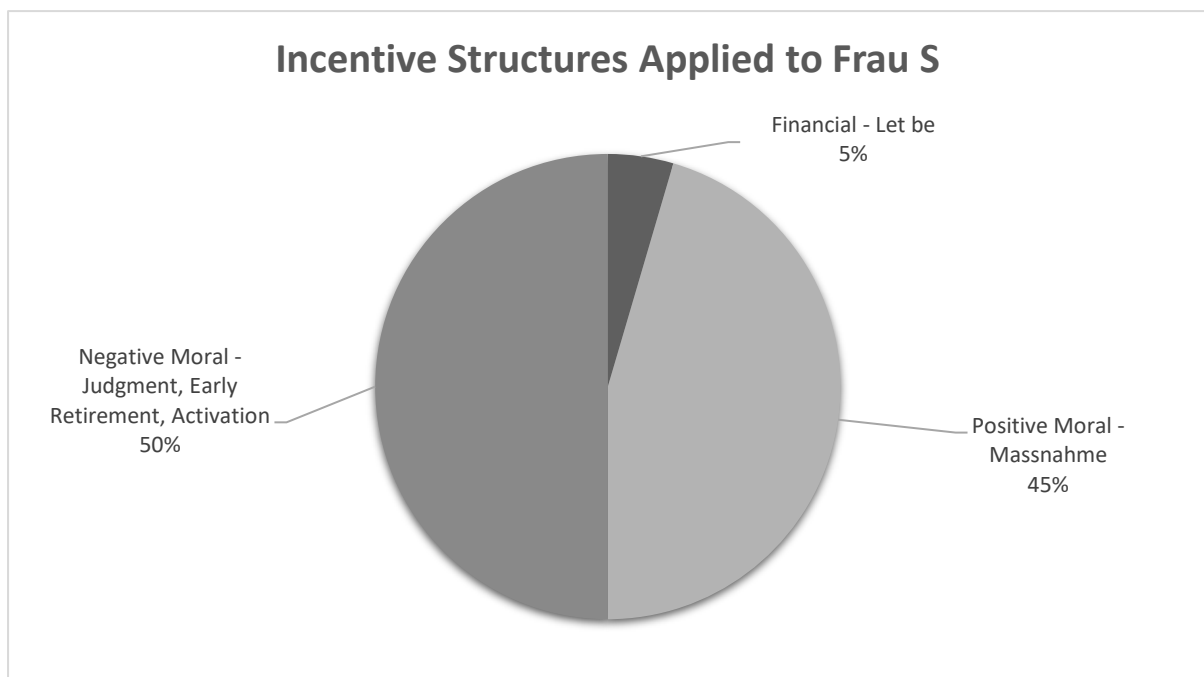
Unlike Frau M (and E below), no AV explicitly mentioned sanctions regarding Frau S. Indeed, most readily sympathised with her despite the previous section suggesting some negative moral judgment did occur. She therefore never faced the coercive incentive.

II. B. 6. Summary of Incentive Use towards Social Protection Action Orientation

Because the legal text is explicit in forcing early retirement, the negative moral incentive was at play more than in Frau M's case, with many AVs willing to encourage Frau S into a *Maßnahme* if available, but erring on the side of early retirement. Because these two

answers were often in tandem, I again interpreted each as two observations counted in the overall number of observations, thus more fitting with what types of communication Frau S would actually confront at the Jobcenter. Three AVs were unwilling to answer questions regarding the processing of Frau S – again due to their specific positions within the Jobcenter process. The field of what Frau S can expect, at least with this sample of responses from our four different regions, is illustrated in Chart 6.2 below.

Chart 6.2 – AV Approach to the Social Protection Action Orientation



II. C. – Frau E

Differing from the previous two orientations, the emancipation orientation poses a direct challenge to aspects of the capitalist labour market system – both in terms of what is considered work, and the purpose of jobs. Frau E's orientation is expressed through an

unwillingness to work for a domineering manager in the private sector as well as a positive orientation towards voluntary political engagement – indeed to such an extent that she believes it more important to volunteer for political change than reduce her unemployment benefit through wage labour. Secondly, because Frau E likewise sought to avoid patriarchal domination through leaving her former partner, she enters the scene also as a single mother who must divide care work between herself, school, or other care work providers. The distribution of responsibility for this care work is of course a key element of the *defamilialisation* theme of feminist political economy (Sainsbury, 1996) – particularly through ensuring whoever performs this care work is paid for it, whether in a wage labour relation or not. From her perspective therefore, by dividing care work between herself and school (which ends at 1pm for 11-year-olds in Germany), as well as participating in volunteer political work – effectively participating in the social and political reproduction systems of capitalist democracy – Frau E *is already* performing two socially-integrated work roles. However, is this considered justifiable at the Jobcenter?

Considering the emphasis on a wage labour described thus far, it is conceivable that the answer to the above question is no. Consequently, we can expect little parity of participation for an emancipation orientation. Whilst this is indeed true in the analysis below, it is not as discouraged as expected. As an emerging observation with each vignette – that the law provides the most draconian foundation for the enforcement of wage labour – AVs tend to instead utilise a number of techniques to temporarily circumvent this enforcement, often actually facilitating Frau E's orientation.

II. C. 1. – Facts and Norms for Frau E: Care Work, the Market, and Emancipation

The first situation Frau E confronts is how to manage participation in the system with supervision of her child. Frau E is expected to work when the child is supervised:

“Basically, it is such that [the child] goes to school. That means, at 11 years, the kid will have instruction from 8am until 1pm. In the meantime, Frau E must definitely make herself available (*Verfügung stellen*) in the labour market. If Frau E now says, ‘I also still have afternoon supervision for my child,’ because many schools offer after an afternoon supervisor for after-school childcare (*Hort*) or homework supervision, Frau E would also be standing available (*Verfügung stehen*) during this time period” (AV4).

According to other interviews (AV5) Frau E can claim the need to supervise her child after 3pm, when schooling is certainly over for the day, until the child turns 15. Otherwise, she is obliged to be available to work for a wage from 8 until 3 – 7 hours. It is unclear what happens between 1pm and 3pm in this case, leaving the negotiation of Frau E’s time and child supervision largely dependent on the sympathies of the employer and the AV. Moreover, because she is obliged to seek child support from her ex-partner as an alternative source of income, the state effectively assumes a relation of financial interdependence between parents who are *not* in a BG. In addition, she must apply for *Kindergeld* from a separate administrative system. She is obliged to do all of these unpaid forms of labour as a single mother on ALGII.

These tasks Frau E confronts enforces a specific social norm on the distribution of care and wage work in which the separated parents are assumed to be interdependent in raising the child. Although not gender coded formally, these relations of interdependency assumes the continuing commitment of a nuclear family in care work and income support throughout the child’s rearing period, despite the complete absence of a nuclear family in the daily life of the child. If all-day childcare services or care work provision were a citizen right regardless of

family circumstance, these bureaucratic struggles and continuing interaction with her ex-partner in legally-imposed delineations of responsibility would not exist. Therefore, the German system of care provision appears to undermine all three models Fraser (1994) proposes to induce gender parity in the distribution of care work and wage labour.

First, Fraser's (1994:612) ideal of a deconstructed gender model, clearly requiring cultural change, is not achieved simply due to the actions for Frau E's partner – calling her *Rabenmütter* and demanding she perform the role of unpaid care worker in the home. On the other hand, Germany has taken some steps in this direction, allowing for partner-determined distribution of mandatory paternity leave early in the child's life which, in principle, allows the father to engage in as much or more care work than the mother during the first three years of the child's life. However, this is again predicated on which social norms are prevalent in the family. Statistical trends pointed out in Chapter 4 suggest German women engage less in the labour market absolutely, and when doing so, more often in part-time roles – undermining empirical support for Fraser's deconstructed gender model. Secondly, when contrasted with the universal breadwinner model (Fraser, 1994:601), where universal childcare is provided to enable Frau E's full time employment, schools' early end times and the sporadic nature of childcare availability – particularly in the *West* (Hagemann, 2006) – makes it difficult to accept regular full-time employment whilst child supervision is ensured. Thirdly, considering the extra support for her child is based on a reduced calculation of necessary expenses, she is more or less unpaid for her care work, thus undermining the care giver parity model (Fraser, 1994:605). Indeed, as previously noted, the very fact she must apply for *Unterhaltsvorschuss* or extra child support from her ex-partner suggests she must do *more* unpaid labour because she is a single mother facing a complex bureaucracy imposing legal obligations. The implicit suggestion is: do not get divorced and do not lose your job because ALGII will not emancipate you from either.

These observations give rise to another question posed to AVs in the context of Frau E: *Who determines what counts as work?* I gave choices in this case: the market, the law, the BA, the AV, or Frau E. Rather predictably, many AVs erred on the side of the law. Although the term ‘*Arbeit*’ implies a number of different definitions, asking this question in the context of a Jobcenter elicited a general thrust towards ‘work’ that pays into the social insurance system (*SvpB*) as defined by SGBII and explained rather straightforwardly as follows:

“In this case, the law, because the law says she must search for work that lowers or ends her need for help, ALGII. Hence, it follows that she must search for work that is paid. And indeed sufficiently paid.... Then one must simply make clear here, that this voluntary work (*ehrenamtliche Arbeit*), rightly very highly esteemed, but unfortunately not as highly as gainfully employed work (*erwerbstätige Arbeit*), work that someone is paid for” (AV3).

This is almost always premised, as demonstrated below, with the *sozialversicherungspflichtige* adjective – work obliged to pay social insurance – effectively meaning an income above 400 euros per month:

“That is, in the first instance, the text of the law, which above all determines [what work is]. With us (at the BA), it is an occupation which is obliged to pay social insurance (*svpB*) or a freelance occupation” (AV21).

Although fully 16 of the 21 AVs which answered this question privileged the law, it was often couched in the other given options – leading to 55% of total observations suggesting the law defines work, with 17% accompanied by market, and approximately 7% for BA, 7% for society, or 7% granting legitimacy to each perspective and only one or two considering work is also defined by AV or client.

Although the law defines what work is, this definition is connected to actual income amounts. From this observation, one can infer an obvious link with prevailing wages in the labour market. The following AV rather elegantly explained:

“What constitutes work is determined by SGBII. That means it is determined totally clearly (*ganz eindeutig*): it means a gainful occupation. And so we say: work is everything that pays out a wage and comes with a work contract. [So, the market?] Viewed as such, the market, yes. The market is the first, and the law lies over it. It cannot be reproduced (*abbilden*) other than by what the market offers. The law is always only a hood (*Haube*) and the market lies beneath” (AV10).

This linking the definition of work with income leads to an interesting dichotomy in cultural judgment, whereby obtaining wage labour becomes a paramount moral duty whilst taking money to conduct volunteer and care work is considered contrary to social norms. In other words, obtaining wage labour contracts for state dependents begins to supersede all other social norms. For instance, on the one hand, we have the following dialogue answering who determines what counts as work:

AV: “That is different for everyone. Frau E naturally determines what constitutes work for herself. And the BA says first of all, correct work is if it goes over 450 euros²⁷ – obliged to pay social insurance. The law views it still totally different. It is very different depending on perspective (*Blickwinkel*)”

I: Which view is legitimate?... from where comes legitimacy?

²⁷ According to SGBII§11b, there appears to be a discrepancy between this AV statement and the threshold for paying social insurance (either €400 or €450).

AV: That is difficult. It comes depending on what is altogether. If she sits here as a client, then the BA determines... (*SvpB*).

I: And if she is a stay-at-home mother?

AV: That is then a societal thing. For example, we have here over 50% of clients with a migration background... (discussion of distinction between foreign status in statistics and having a 'migration background')... we have here clients that I believe work doesn't come into the picture at all. Work is exclusively work in the house and exclusively work in the Mosque [Mosque?] Mosque. Muslims. [Ah, ok] And they never say they are doing nothing, they employ themselves, and they are fully occupied, but everything is voluntary and inside the mosque. And at home. They are doing something 10 hours a day, but never where somehow or another money comes in. One is only with the family. And that is for example totally normal" (AV18).

In contrast, we have the following dialogue answering the same question:

I: Who determines what counts as work? The market, the law, the BA, you, or Frau E?

AV: "When income [is earned]! (*Als Einkommen!*) For us it is totally irrelevant where she earns money... as long as it is not illegal. If she now plays the lottery and suddenly wins 3 million, and can live from that, it is exactly as good as if she now has a job as a cleaning lady and earns her 12 or 15 and lives from that. It doesn't matter to us. Everything from entrepreneur to homeless – occasionally even one, a consort – had worked as a prostitute. If it is legal, and she earns something from it, it is ok. [Really!?] It is not a crime anymore. If it

is not a crime, for us it doesn't matter how she earns her money. Our goal is that she finances herself from her own resources (*eigene Mittel*).

I: But the BA of course cannot, with prostitution...

AV: No! We don't facilitate (*Förderung*) that – no, no, no. But when someone for herself says –

I: – But why not, it is legal here in Germany?

AV: There are borders. There are borders... [discussion of terminology] ... it is legal but facilitation is not legal. The facilitator [*Zuhälterei*] of prostitution is not legal" (AV16).

Although much of this dialogue was translating unfamiliar terminology, it appears that prostitution is legal in Germany to avoid discriminating against sex workers, but those who facilitate prostitution are not in a legal occupation, and therefore the BA does not place offers for work in a brothel. However, the pressure to earn one's 'own money' can lead to prostitution – which this AV evidently experienced with one client. Contrasted with the previous dialogue, we can at least preliminarily suggest that it is therefore more within the spirit of the law for an individual on Hartz IV to become a prostitute to earn her own subsistence than maintaining dependency on the state and performing unpaid labour in the household whilst volunteering at a religious institution. It appears the Hartz Regime therefore devalues any kind of cultural recognition through avoiding the question of social norms altogether, focusing exclusively on lessening the need for help (*Hilfsbedürftigkeit*) in any manner. Consequently, the Hartz Regime can appear to support prostitution over care work and volunteering because a financial transaction is taking place which allows the prostitute to 'earn her own money'.

From an emancipatory feminist perspective, relegation to housework and religious activities may appear as the product of oppressive social norms which create a gendered

division of labour. On the other hand, relegation to prostitution can hardly be considered a more just alternative. That said, if a Jobcenter decided that voluntary political activity and housework as a single mother was activity legitimate enough to forestall activation into wage labour – in effect supporting Frau E’s version of emancipation – whilst voluntary activity at a Mosque and housework in a patriarchal family structure was not, we must acknowledge *the definition of emancipation is necessarily linked with prevailing social norms in a given society*. Yet, it is precisely the recognition of multiple socio-normative publics (Fraser, 1990) which drives Fraser’s call for parity of participation. This creates a dilemma.

When an emancipation orientation is theoretically defined as devoid of content, we cannot distinguish between those adhering to oppressive social norms seeking emancipation from a more liberal German context, with those seeking emancipation from oppressive social norms, nor system-determined subaltern roles, within the German context. We cannot therefore distinguish between the emancipatory potential of Frau E’s orientation, chafing under both economic and household domination, with that of an Islamic fundamentalist for example, chafing under capitalist work norms and the expectation of female labour force participation. This suggests a problem with conceiving social justice purely in formal terms. When defined in purely negative terms and focused on immanent critique, *an emancipatory orientation is rendered individually subjective and therefore interminably relative and ultimately meaningless*. Although recognised by Habermas (1996), the question of universally valid social norms and the content of emancipation has been an important focus and debate in subsequent Critical Theory. In particular, Forst’s (2012) work, *The Right to Justification*, ultimately underlines the importance of free and equal communication between subjects in a democracy. Like Habermas, the conditions of communication stand prior to the content of that communication, and the first condition of communicative parity is the absence of coercion.

Viewed from this point of view, we can overcome this dilemma. First, the specific text of the Frau Es vignette is actually not devoid of content. Inspired by Habermas's and also Forst's work, it instead extends this prioritisation of democratic communication to the system of labour allocation. Under democratic conditions, each party to the dichotomous capital-labour relationship is considered an equivalent moral agent engaging in a mutually intelligible relationship. In other words, emancipation in this context means *moral obligations are either mutually agreed, or both parties may treat the relationship instrumentally*. If one side of a relationship is morally obliged to become the instrument of another who does not reciprocate the normative conditions agreed between agents, an injustice is occurring. When focusing on Frau E, this inference points to the importance that Fraser (2003) underlines when arguing that redistribution creates the resources for recognition and not the reverse – effectively providing subsistence for an orientation which may or may not be considered reasonable by the social norms of a given lifeworld until deliberated democratically. Without this support, communicative action in the lifeworld no longer determines the legitimacy of an action orientation, but the system producing subsistence and material support for the conditions of democratic deliberation.

Turning to the system of production, we have already seen that those with sufficient assets (ie. winning the lottery) to generate subsistence without work or welfare (ie. rentier), whether a feminist or a fundamentalist, are no longer required to be morally oriented towards work. This in turn suggests that there is a necessary but not sufficient condition to hold an emancipatory action orientation in the Hartz Regime: subsistence-generating financial assets or unconditional basic income. Because Frau E does not possess the former, and the latter cannot describe the Hartz Regime, we already witness the basic injustice of the Hartz Regime: it does not universally apply normative constraints on non-work. Whilst this is not surprising, combined with the above observation on the equivalency of reasoning between employer and

employee, it forms an important thread of investigation in the next chapter when examining relations between class positions in the social structure.

Before examining the forms of reasoning between social classes however, we must finally examine the incentive structures Frau E faces when sitting at the Jobcenter. With the legal text of the Hartz Regime – SGBII in particular – defining social integration as wage labour or access to subsistence-generating financial assets, one would assume that Frau E's orientation would be significantly undervalued compared to both the willingness to work demonstrated by Frau M and the sympathy for past work elicited by Frau S. However, this was not entirely the case. As previously mentioned, AVs themselves tend to have a number of techniques to facilitate a given orientation and effectively circumvent the draconian letter of the law – the first of which is delaying activation and hoping Frau E's current voluntary activities will lead to waged employment.

II. C. 2. – The Financial Incentive: Letting Frau E Volunteer Indefinitely

The realisation of an emancipatory action orientation for Frau E allows her to care for and subsist with her child without forced recourse to dependency on a domineering partner or a wage from a domineering employer. This effectively means doing precisely what she is already doing as described in the vignette: volunteering politically and living on Hartz IV. Only one AV seemed at least somewhat sympathetic with this point of view, stating:

“Because she now says she will in no case, so to say, work with domineering management and she would like to go the political direction? [Yes] That is not evidence for sanctions (*Sanktionstatbestand*) in this sense... no, no. It is definitely so, yes, proven (*nachgewiesen*), that if one really suffers, here as an

‘appendage of his will’ that goes almost in the direction of bullying (*Mobbing*), [she] is sick. And that one can, yeah, such things, [one] must also not support. One must always really look at what is, and I would support her (*sie unterstützen*) in her ambition (*Bestreben*) to become politically active. You must look again what one has in the region, there are, yeah, certainly possibilities for work with self-insurance duty (*selbsversicherungspflichtig*) with [political] parties and so on... she wants to engage herself, then she finds no work at the moment, then even [does] voluntary work, and that I find wrong – [I mean] correct – even very commendable, and actually a good basis in her favour to then to also create (*schafft*) [something], then she could integrate into *SvpB*” (AV8).

Although explained in a somewhat roundabout way, this AV sympathises with Frau E – particularly as the only AV which directly picked up on the ‘appendage of his will’ quote in the vignette – and considers her possibly mentally damaged from such an experience. Therefore, the AV supports her political engagement and suggests she could eventually find a job paying social insurance with a political party. In effect, she profiles her as in need of support (*unterstützen*) which does not require immediate activation, then commends volunteering in hopes she will eventually find a job she wants.

Although I directly asked if AVs would discuss sanctions in such a case as Frau E’s, this particular AV immediately discounted it, made a spontaneous judgment about the mental state of Frau E, and ultimately allowed for continuing financial support of the status quo. In effect, this represents a financial incentive facilitating Frau E’s orientation as described in the vignette.

II. C. 3. – The Positive Moral Incentive: Health Examination and Positive Perspective Changing

Unlike the above AV who made a series of judgments without following procedures explicitly, many other AVs appeared to overestimate Frau E's complaints of stress and pain in order to delay integration. In so doing, they can process their clients in the profiling system as currently seeking medical attention rather than forcing a re-integration agreement – what I interpreted as a tactic to avoid direct confrontation with clients on the duty and letter of the law. Intuitively common in large bureaucratic systems, this tactic temporarily unloads Frau E onto a different system – in this case the medical system – to delay the nuisance of forcing the immediate activation of someone:

“No, because there are other antecedent things (*vorgängige Sachen*) which are to be clarified. If someone so comes, we must first clarify the other things, before one can speak at all (*überhaupt*) about work. And that is, examplewise, we must observe: does she always have pain and stress from the accident? Or says that. And then one must [get] a doctor's report (*ärztliche Gutachten*)” (AV15).

Like educational advancement for Frau M and *Maßnahme* for Frau S, the BA has the option of sending people to doctors for medical evaluation whilst supporting their subsistence. Because this suggests a sympathy for physical health problems and a system capacity to realise those sympathies, I considered sending Frau E for medical evaluation a positive moral incentive. Not only does this delaying tactic almost facilitate the possibility the AV mentions above – giving time for Frau E to find a paid job in the political sector – it also provides the time for physical healing as a form of preparation for later labour market integration.

Often accompanying the delaying tactic of sending Frau E for health evaluation is a thrust towards perspective changing. Many cases of reasoning in this manner attempted to find alternative directions for integration into *SvpB* which align with what has been defined thus far as a positive moral incentive – namely, further training and coaching on employment prospects:

“I would try with Frau E, to gradually get through to her (*dahin zu kommen*), that she either needs more qualifications, can be that’s out [of the question], then I would work further on motivation, and then at the moment is also the question of her health [-affecting] work performance (*gesundheitliche Leistungsfähigkeit*). Is she still not quite fit? But after, then we can even develop something. She could perhaps even go into coaching [English term], there they could also in turn change this perspective, the thinking (*Gedanken*) –

I: What is the problem with her thinking?

AV: She says, yeah, there are more important things in society than economy, and that lacks democracy. This must not be a problem necessarily, with her primary desire she could, yeah, work in a profession – as a girl, also go into administration. She could, yeah, try to go in the direction of administration or a secretary. In that she has already worked, I believe 7 years or so, in insurance, and with that she could go into an office. Perhaps she needs a qualification, and could look before, just to see if she goes in the direction of administration, or even if she could also get hired anywhere in a political organisation” (AV14).

These statements follow the Four Phase Model rather closely, yet interprets every element of the subsequent stages in a very facilitating way, thus avoiding immediate activation and instead utilising Jobcenter resources to steer Frau E in a *SvpB* direction. In so doing, this AV is

attempting a mutually agreeable compromise and communicates it as a positive direction, thus presenting a positive moral incentive for Frau E. As with the delaying tactic and focus on Frau E's mental and physical health, I interpreted these types of communication as indicative of positive normative reasoning offering a moral incentive to work through first taking care of her immediate needs.

II. C. 4. – The Negative Moral Incentive: Legal Duty to Activate

Contrary to the attempt towards perspective changing and positive moral reasoning, negative judgment also accompanied interpretations of Frau E. When focusing on her negative experience with domineering management and refusal to work again for such a manager, one AV responded:

“Who wants that? Who wants to always be told what to do? But that is simply the society. I go to work and earn my money and then I go again home and spend my money. I also don't like my work every day. But that is simply our lot in life (*einfach das Gewerk zum Leben dazu*). We also try to make clear to clients accordingly, that that is simply how society is” (AV4).

This rather candid statement about the nature of German society straightforwardly reifies the meaningless grind of wage labour, yet expects both Frau E and other clients to simply accept this – effectively rendering Frau E's working for political change irrelevant and substantiating Offe's (1996) observation of moral self-binding to the economic system unloaded onto individuals. In practice however, the most common answer to Frau E's aversion to working for a dominant manager and wish to volunteer was the law, as the following articulates:

“My God! The law also plays a role. She must do everything [she can] to reduce her need for help (*Hilfsbedürftigkeit*) and we can take into account their interests, but like I said, she has also a duty vis-à-vis (*gegenüber*) us. She cannot go only towards her interests, what she wishes for her and nothing towards us, we are no *Wunschkonzert*. The labour market is at the moment no *Wunschkonzert*” (AV5).

Wunschkonzert literally means ‘wish concert’ and corresponds to a concert or radio programme which takes requests from the audience, but has gained a general use in a mostly negative formulation: ‘_____ is not a wish concert.’ In short, Frau E cannot expect to get what she wants and she has a duty to reduce her benefit amount, thus requiring a more immediately realisable orientation towards the labour market and accept what she can get. This is clearly a negative moral incentive as defined here, focusing on legal duty and defining ‘realistic’ expectations as contrary to emancipation for someone in her dependant social position.

II. C. 5. – The Coercive Incentive: Sanctions

Unlike the other vignettes, Frau E did receive a few threats of sanctioning, with the AV below most forcefully expressing the tool a coercive incentive can be for disciplining individuals into particular social expectations:

“I think that the restriction (*Einschränkung*) Frau E makes, the view of employers, is simply inadmissible (*unzulässig*). She indeed had a bad experience, with an employer as said, but I think that in absolutely no case making such a restriction [is] justified (*berechtigt*) – with respect to what she says towards starting work (*Arbeitsaufnahme*), she wants only political

employers, only for political organisations. That appears as not justifiable (*gerechtfertigt*) to me and in this respect, for me a sanction would be justifiable” (AV13).

This justification for sanctions directly confronts Frau E’s attitude toward labour market participation and justifies a coercive incentive to alter it. Excepting this quote, most AVs willing to use sanctions would formulate it in a more cautious manner, such as the following:

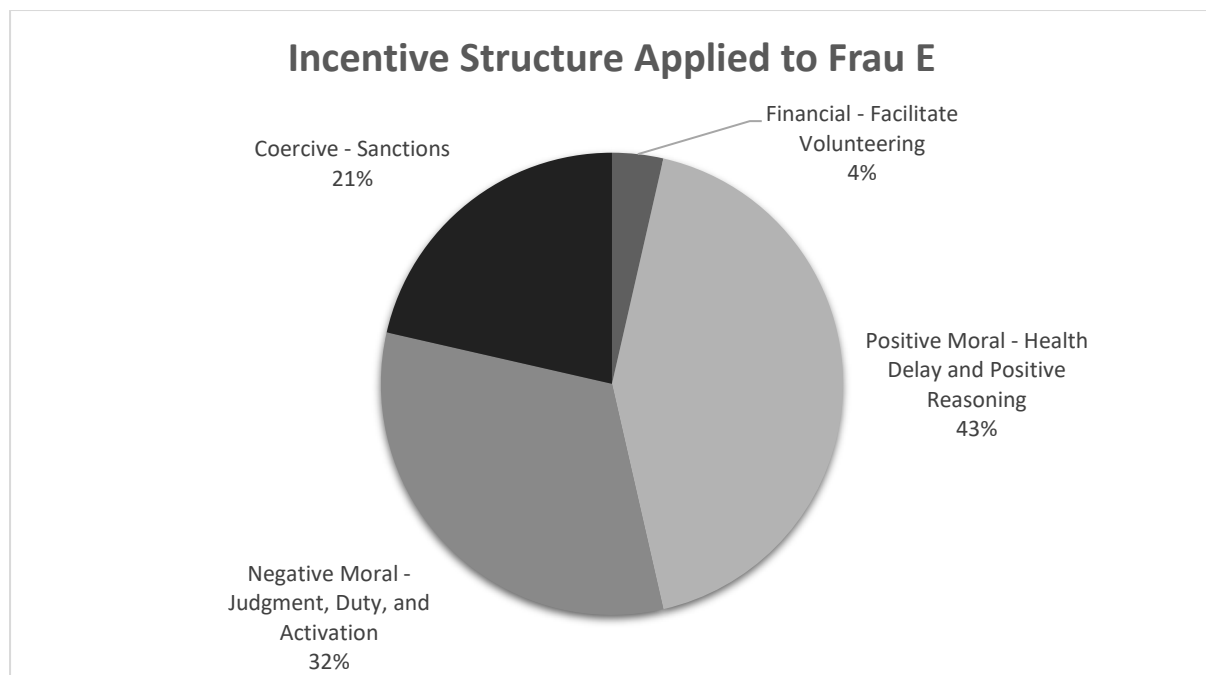
“If she in principle would say, she will go work only in the one field and everything else plays no role for her, then one must, at a determined point, also talk about sanctions because she is, like I already said, obligated to take on every reasonable employment. One can naturally withstand up to a certain point and say ‘ok, I can understand that’, that she perhaps doesn’t want to work in the [specific] firm, because she perhaps in the past had already worked there and had collected some bad experiences. Or someone collected bad experiences in the family, but in principle (*grundsätzlich*) to say that she will take no role in the private economy, instead perhaps only in relief organisations, NGOs, or what... that will not function. And if she then doesn’t comply with her duties, one must, at the end of the day (*Endkonsequenz*), talk about sanctions” (AV11).

This AV is of course only doing their job and following specific procedures for sanctioning, particularly regarding the refusal of reasonable work. Therefore, the negative incentive of sanctioning is brought into communicative action to discipline and threaten Frau E with non-compliance to what German law considers reasonable employment. Frau E’s action orientation is undermined and nothing further can be done.

II. C. 6. – Summary of Incentive Use towards Emancipation Orientation

Because the reasoning expressed above between sanctioning and duty to find work underlines all communicative action at the Jobcenter, Frau E's emancipatory orientation faced more negative incentives than the others. However, because many AVs also sympathised with her, particularly as single mothers are a common sight at German Jobcenters, she faced a set of incentives more facilitating towards her orientation than the letter of the law. As previously pointed out, my research suggests that the law is the most draconian element of the Hartz Regime, at least the law governing ALGII, and whether or not AVs facilitate individual action orientations largely depends on their personal disposition. Nevertheless, the normative constraint on non-work for welfare dependent individuals is rather explicit in SGBII, making the very high degree of variability between AVs a more positive finding than many researchers focusing on stigmatisation (Endres, 2014) uncover when examining Jobcenters in Germany. In short, at least some AVs attempt to facilitate welfare recipients' action orientations beyond what is legally required, as their experience suggests that sanctioning is ineffective. Consequently, a number of different courses of action for Frau E were uttered during interviews, increasing the total number of incentive-use observations to 28 in 22 interviews. As previously stated, these are the total number of possible incentives mentioned during the course of communicative action about Frau E, allowing for some individual AVs to communicate multiple possibilities. Hence, like the others thus far, Chart 6.3 below is purely descriptive, showing a slight majority favouring the negative side of either normative or instrumental reasoning.

Chart 6.3 – AV Approach to the Emancipation Action Orientation



III. Analysis and Key Points for Further Investigation

With the above description completed, we can now turn to analysing whether or not the Hartz Regime is socially just in terms of parity of participation between action orientations. Although those receiving Hartz IV are not the majority of participants in the German labour market system, they do represent those in the least advantaged positions, thus forming the key subjects of the Rawlsian (Rawls, 1999a) and the capability (Sen and Nussbaum, 1993; Nussbaum 2000) approaches to social justice – as well as the approach employed here. This section will therefore first present the analysis of the empirical description above, demonstrating that parity of participation between action orientations is not achieved, thus suggesting: *the Hartz Regime is not socially just*. However, the analysis itself obscures a more important element of the Hartz Regime: the expectation of a moral orientation towards work. I will then reiterate the more general findings of each fact and norms section of the above empirical description and how these form key topics for examination in the following chapter.

III. A – Analysis of Parity of Participation

To reiterate, there are four incentive structures at work in the practice of labour market participation: 1) the coercive incentive, which effectively equates to sanctioning in the case of all vignettes, as this increases exposure to base necessity, intensifying physical stress and difficulty in life until behaviour is altered; 2) the negative moral incentive, which generally focuses on legally-obliged duties, negative moral judgments, and general antipathy towards any orientation challenging the *normative constraint* of non-work; 3) the positive moral incentive, which differs for each vignette, but generally includes discourse about the importance of work for social life, measures to stabilise health and daily life, education, as well as verbalised tolerance for the expressed orientation of the vignette; and 4) the financial incentive, which generally means the most profitable course of action *given the goals of the orientation* – not necessarily the most profitable financially. In short, direct financial support for the given action orientation. These numbers, 1 through 4, correspond to a ‘score’ in the quantified analysis below.

When coding for analysis, I have interpreted each of the responses given by AVs based on their general *emphasis* when confronted by my questions and each vignette. This is necessary because some AVs mention multiple incentive structures during the course of the interview, listing off the possible options they have. Emphasis is defined through comparison. For example, when determining a score of (1), if one AV responds outright they would not sanction because it is counter-productive, whilst the other repeatedly mentions the criteria for sanctioning and their willingness to follow these criteria, the former can be considered unwilling to use this incentive, whilst the latter appears to favour it. The latter thus scores a (1). For a score of (2), when discussing negative moral reasoning, if scorn and judgment occur, or

the repeated quoting of the law are common throughout the discussion of a given vignette, then the AV can be interpreted to favour negative moral incentives and receive a (2). However, if positive language and referencing of the many capability-enhancing tools available to AVs is prevalent, then we can consider this positive moral reasoning, thus receiving a score of (3). Finally, if the AV explicitly supports the goals of Frau M (founding an EG), S (support without interference or early retirement), or E (considering volunteering sufficient for social integration) then they receive a score of (4).

Table 6.1 – Coded Hypothesis Matrix of Lifeworld to System

Action Orientation	Incentive use Hypotheses	Empirical Distribution	Average Distribution	Average Score
Marketised	1. Financial?	1.5	7.50%	4
	2. Moral (positive)?	13.5	67.50%	3
	3. Moral (negative)?	4.5	22.50%	2
	4. Coercive?	0.5	2.50%	1
		20 Responses		2.8
Social Protective	5. Financial?	0.5	2.78%	4
	6. Moral (positive)?	8.5	47.22%	3
	7. Moral (negative)?	9	50.00%	2
	8. Coercive?	0	0.00%	1
		18 Responses		2.5333
Emancipatory	9. Financial?	1	5.26%	4
	10. Moral (positive)?	8.5	44.74%	3
	11. Moral (negative)?	6	31.58%	2
	12. Coercive?	3.5	18.42%	1
		19 Responses		2.3375

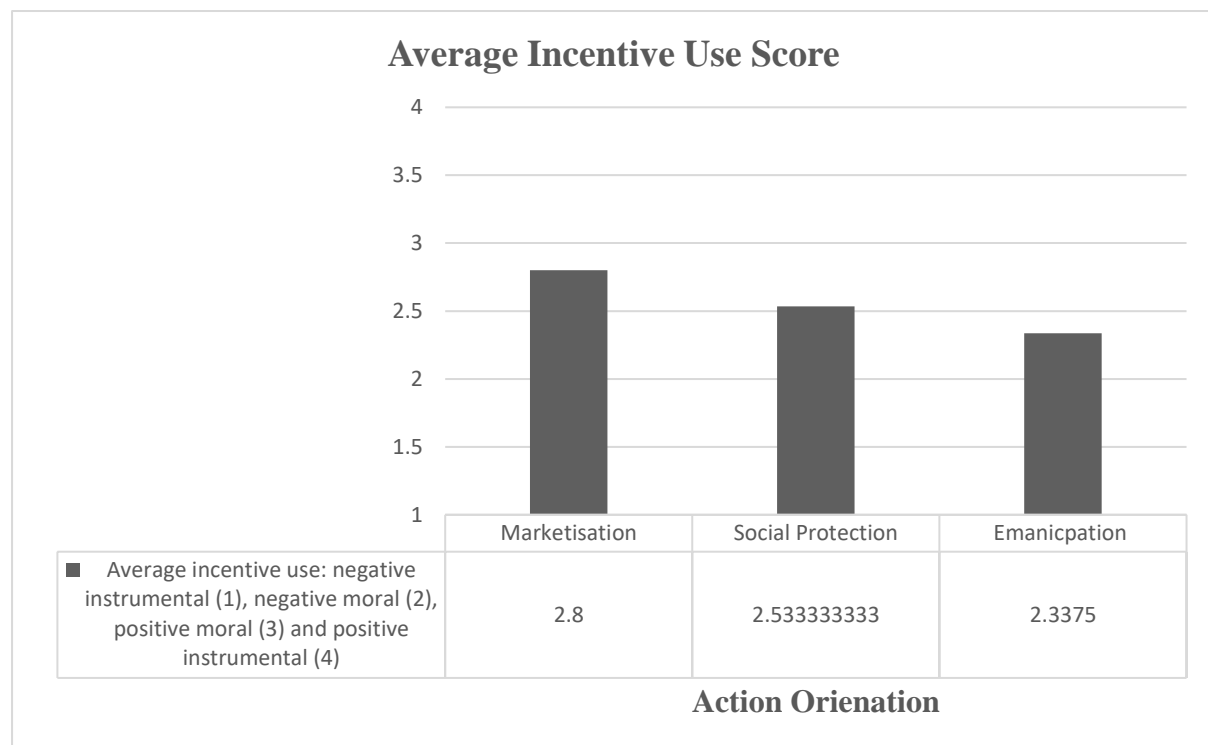
Unlike the descriptive charts following each vignette's section above, which represented the ratio of each incentive as communicated during interviews, each AV is only given a total of one point for this analysis. If an AV emphasises more than one incentive to

such an extent that I could not reasonably infer that one or the other is considered paramount, then the score is split. For example, if an AV emphasises both the letter of the law, emphasising moral duty whilst simultaneously suggesting capability enhancement or healing – the positive moral incentives – .5 points are given to each for the given AV. This prevents overestimating the impact of AVs communicating extensively with those rather terse and short, thus providing a more realistic assessment of what would actually happen when Frau M, S, and E are processed by the Jobcenter. The outcome of this coding analysis is presented in the table above and figure below.

Aligned with the hypotheses matrix at the end of Chapter 4, Table 6.1 presents the number of AVs emphasising which incentive they would use when confronted with each vignette. As described above, the particular policy instrument used by AVs varies by action orientation due to the age, education, and circumstances in each vignette. However, these are placed in equivalent categories based on forms of reasoning – positive and negative forms of both instrumental and normative reasoning – allowing for comparability. Likewise, because we have slightly different response rates to each vignette, calculating their average distribution and average score allows for a standardised comparison. Scored on a 1 to 4 scale, the average scores faced by each vignette are visualised in Chart 6.4.

When considering average scores, anything over 2.5 suggests the orientation faces more positive reasoning whether moral or instrumental. Therefore, marketisation is the most favoured, whilst emancipation is the least and social protection lies somewhere in between. This provides clear evidence for a lack of parity between action orientations as hypothesised. The ‘Average Distribution’ column of Table 6.1 indicates that in general, the probability for either negative moral incentive *or* coercive incentive increases as we move from marketisation to emancipation. Chart 6.4 visualises these scores.

Chart 6.4 – Parity of Participation of Action Orientations from Lifeworld to System



Despite a lack of parity exhibited in Chart 6.4, one is struck by how close they actually are. Due to the position of AVs as effective mediators between the BA and each individual action orientation, we find evidence for the importance of qualitative research methods. The analysis above suggests that what is communicated and decided upon between client and AV *cannot be* operationalised purely through institutional analysis focusing on law and procedure. The latter assumes the faithful execution of client processing represented by the Four Phase Model – derisively called ‘The Cube’ by at least one AV. Instead, everyday communicative action between AV and client is not only strongly normative in character, with both positive and negative normative reasoning far more prevalent than either financial support or sanctioning, but often well beyond what is systematised by those who examine statistics and write procedures in Nuremberg. Although beyond the purview of this thesis, follow up research

focused on generating a larger N study could alter the research design to combine survey methods with vignettes based on action orientations, subsequently distributing a questionnaire to larger numbers of Jobcenter employees throughout Germany. However, because the study undertaken here is not a large enough N to provide a statistically significant descriptive picture of the Hartz Regime, it must be considered exploratory.

When assessing the overall themes most present in this exploratory data, we must acknowledge that the above results obfuscate another issue which clearly superseded the importance of content within each vignette. The Hartz Regime is strongly premised on an underlying normative constraint faced by all action orientations: the moral duty to participate by working for wage regardless of one's action orientation. The following section will thus elucidate the important themes of this finding explored more in the following chapter.

III. B – The Work Imperative in the Contract-for-Subsistence Subsystem of the Hartz Regime

The above analysis already demonstrates a key link between the legal implementation of the Hartz Regime and the enforcement of the moral duty to participate in the wage labour relation for state dependants. Regardless of their disposition or orientation towards work, when sitting across from an AV at the Jobcenter, they face an overwhelming proportion of normative reasoning connected both to the positive life experience of working for a wage, as well as the moral duty expected of them by the law. If the work imperative is reasoned about mostly through a normative lens for state dependants therefore, two characteristics must be investigated in the following chapter: 1) who is exempted from this moral duty; and 2) the forms of reasoning about participation prevalent among different social positions.

Regarding the first, whilst the above analysis suggests that the BA is somewhat unjust in terms of granting parity of participation for the three action orientations, it fails to take into

account the underlying reifications and general norms driving the Hartz Regime as a whole. Indeed, the six key observations emerging from the descriptive section above are: 1) that people's intimate relations are assumed to follow a universal norm of financial interdependence – embodied in the concept of a BG; 2) that work is a moral duty which surpasses its instrumental and financial value as expressed in reaction to Frau M's aversion to Minijobs; 3) that economic transformations emerging from employers' decisions are reified as factual realities, communicated to people like Frau S as 'destiny' beyond her control; 4) welfare dependants like Frau M and S are nevertheless expected to adhere to the norm of specialised employment and loyalty to the system as a whole throughout their lifecourse – despite evidence this expectation of loyalty is not reciprocated. In addition, we find 5) that if someone has a child and subsequently seeks to emancipate herself from domestic domination in a BG, the child support system will not facilitate this course of action, and indeed makes it more difficult for her as a single mother; and finally 6) that earning any kind of income is considered morally superior to work caring for children, volunteering in religious institutions, and political engagement – precisely due to the 'contract for subsistence' character of ALGII. The first question for further investigation is thus: which social class position can escape the moral duty underlying the work imperative of the Hartz Regime?

We have already determined that in each of the six observations detailed above, holding subsistence-generating financial assets eliminate 1) the interference of the state in one's intimate relations; 2) the moral judgment faced by those dependent on welfare; 3) the powerlessness of wage-dependent exposure to global capitalism; 4) the spectre of broken expectations of social protection justified by changing economic and social policies; 5) the necessary interaction and interdependency on a domineering partner even after separation; and 6) the dilemma of considering any kind of income source as more important than one's moral convictions. This points already to rentiers exempted from this duty.

Secondly, both the law and the market are *not* subject to moral scrutiny by AVs at the Jobcenter – thus exempting them from everyday questions of social justice. Instead, only those decisions of the individual obliged to reduce their dependency on Hartz IV are subject to moral scrutiny. Because employment is a *relation* and not simply a function of individual enthusiasm however, I also inquired if the BA had mechanisms to prevent abuse of the system by employers. As experienced by Frau S when facing sanctions or working in a call centre, these abuses could be false advertising of wage rates and excessive use of unpaid *Probezeit* – an unpaid trial period for potential new hires at a firm. Although responses suggest subtle hints do occur during communicative action at the Jobcenter, employers' responsibilities emerge from a functionally differentiated set of laws beyond the purview of the BA. In other words, by functionally differentiating a set of laws for employers and a set of laws for underemployed, precarious, and unemployed workers, *we must investigate if functional differentiation in law generates social differentiation in moral standards and expectations*. As identified when clarifying who determines what counts as work, whether the relation itself is considered subject to moral duty and normative reasoning, or subject to purely instrumental calculation, is a promising thread of investigation.

In the general theory of social justice elaborated in chapter 3, we have seen that functional differentiation can lead to social differentiation, subsequently leading to an increasingly fragmented set of normative constraints and expectations placed upon individuals in different positions in the social structure. Explored further in the following chapter, initial indicators from the Jobcenter suggest this is indeed the case for rentiers who can subsist without participating in the wage-labour relationship. We could even preliminarily suggest that capitalist modernity itself rests on differentiating a set of normative expectations, hidden behind the veneer of instrumental functionality. As Brunkhorst (2014:53) notes:

“Once a functionally differentiated system such as the capitalist system of economy emerges, *crisis* emerges at the same time. What the crisis reveals is the *social* difference that lurks behind the *functional* difference of *system* and *environment*. For Luhmann, only the latter matters, whereas the former belongs to our old European feudal past of stratified societies... However, for Marx, *functional differentiation of the economy* and the emergence of new, *market-dependent social classes* are two sides of the same modern coin. For Marx, the crucial difference *that is caused by functional differentiation* is that between antagonistic social classes, and that is the difference between *capital* and *labour*. For the labourers, the crisis was always already there. For them, *capitalism is crisis*.”

The following chapter will thus argue that the functionally-differentiated system of capitalist class society – exemplified by the relations of supply and demand in the labour market – substantially affects normative reasoning in the lifeworld, effectively superseding in importance how the system treats action orientations towards participation. To empirically demonstrate this, I will examine the forms of reasoning applied to the wage labour relationship between differing positions in the social structure, and how the Hartz Regime sanctions or condones these forms of reasoning. It will suggest that Kracauer’s description of the capitalist labour market as a mechanical system which incorporates and discards worker cogs in the machine based on “the vicissitudes of market forces” is indeed a more accurate description of the contemporary order than the glossy re-definitions of Third Way reformers and SIP advocates. Instead of a lifeworld of equal moral agents, accompanied by the right to justifying their own orientation towards social participation, it is instead a system with asymmetrically distributed rights and duties.

IV. Conclusion

The above chapter has explored the first set of hypotheses of this thesis through a descriptive assessment of the Hartz Regime as articulated in Jobcenters in four distinct regions of Germany. It first demonstrates the standard procedure for client processing codified at the BA headquarters in Nuremberg and distributed across Germany, followed by how each of our action orientations represented in the vignettes of Frau M, S, and E fit within the formal regime. This is followed by a description of field research conducted in early 2015 with AVs in the four regions, with the descriptive language of field research data conducted according to the epistemic framework of chapter 3, whilst the analysis of that data is conducted according to the hypotheses matrix of chapter 4. Results suggest first that AVs diverge from both each other and the formal procedures of the Four Phase Model rather extensively, that their prevailing mode of communication is based on normative reasoning over instrumental, and the Hartz Regime *is somewhat socially unjust when assessing parity of participation of action orientations from lifeworld to system*. However, this analysis is premised on an underlying social norm established in the law of the Hartz Regime: the imperative to participate in the wage labour relation. Whether or not this moral duty to participate in the wage labour relation is universally applied is the topic of investigation for the following chapter.

Chapter 7 – From System to Lifeworld: Normative Constraints and Instrumental Reasoning in the Social Structure of German Capitalism

“Marx, like his bourgeois forebearers, holds that it is profoundly wrong to subordinate the ends of some individuals to those of others. That is at the core of what exploitation is, to treat a person as a mere object for the use of others.” – Martha Nussbaum, Women and Human Development, 2000²⁸

An important component of social justice is a normative constraint on treating others as instruments. In a liberal theory of justice such as Rawls’s (1999a), although systems of production instrumentalise individual ends for larger organisational goals, the liberty principle is evidently served through the intensification of labour specialisation, facilitating individual choice in life-course trajectory within the system. This aligns moral agency with instrumental function. Likewise in everyday practice, employers who hire labour seldom imply workers are mere objects lacking moral agency, instead arguing for the importance of paying a decent wage and even expressing flexibility and understanding regarding their daily struggles (AG1). Nevertheless, when examining the form of reasoning accompanying discussion about the employer-employee relationship – in particular employers’ essential role in realising the moral duty of the unemployed to find work – a distinct difference from the discourse prevalent at the Jobcenter emerges: the element of moral *duty* is subordinated to the instrumental rationality of competitive profit-seeking. This ultimately represents an injustice from system to lifeworld because the normative constraint on treating the work relation as purely instrumental in the pursuit of individual accumulation is not universally applied.

In the following chapter, I will describe background conditions and the connection between normative and instrumental motivations for participating in the wage-labour relationship, ultimately arguing that the Hartz Regime asymmetrically applies moral duty for individuals based on their social class. The unemployed and working classes are morally

²⁸ (Nussbaum, 2000: 73)

obliged to work for capital which, through reifying a functionally differentiated role in the system, justifies treating all relations with workers as instrumental. Yet, capitalist firms themselves function under the moral duty to repay debt, ultimately suggesting only the rentier class enjoys the capacity to treat all relations instrumentally. This latter observation is especially revealing in the context of European competition and global financialisation emerging since the 1990s, accompanied by the experience of declining wage shares and increased inequality in Germany.

Beginning with an examination of how unemployed individuals understand their condition, the discourse emanating from the Jobcenter, as well as their understanding of employers' rights and responsibilities, I will then examine union representatives in the same context, followed by employers, before examining larger trends in Germany political economy to grasp the role of the rentier class. Alongside each section, statistical descriptions will identify the recent trajectory of German capitalism within each of our 4 regions. Qualitative observations emerge from the identical vignettes given to AVs explored in the previous chapter, with some alterations in the questions asked. A key focus will be on the normative vs. instrumental distinction in reasoning about the incentives for participation which shed light on statistical evidence. Following this elucidation, a theoretical conclusion about functional differentiation undermining ostensibly equal legal statuses will be made, thus answering the question: 'is the Hartz Regime socially just?' according to the hypotheses matrix in chapter 4.

I. Facts, Norms, and Reasoning about Work between Positions in the Social Structure

The following section will draw primarily on descriptive statistics from the four regional cases studied, as well as interviews conducted in mid-2015 with unemployed dependants, working class organisations represented by union officials, and either employers

or officials from German employer associations operating within these regions. Because no interviews with elite rentier capitalists or financial institutions were obtained, I will draw on further research alongside statistical evidence for this category.

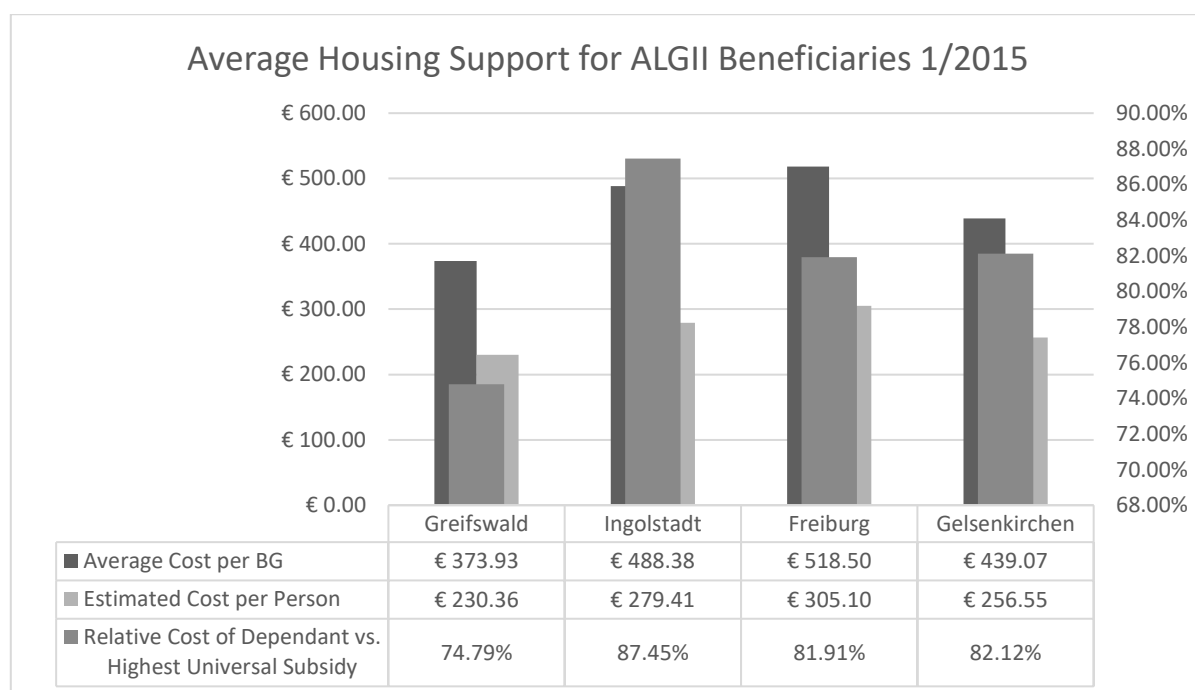
I.A. - The Dependant Class

Everyday comparative justice, premised on the common statement ‘it could be worse’, remains to be seen for future comparative research. Nevertheless, when entering into the home to conduct interviews with both short-term and long-term unemployed, as well as state dependants, the material standards could indeed be worse. I have entered separate living rooms with comfortable furniture, as well as well-appointed studios with admirable book collections. Although the sample size is insufficient to make general claims, as well as the fact that many of these possessions were likely accumulated in previous times when in work, the very fact of these observed conditions existing for some clients who had been unemployed for over 10 years (K4) suggests that dire material deprivation is not prevalent in the Hartz Regime. Because access to this basic need is necessary prior to the ability to participate in economic and political life, *a reasonable standard of housing independent of labour market status* is an important consideration for any comparative theory of social justice.

To supplement these qualitative observations, the rear columns in **Graph 7.1** indicate the average expenditure on housing support for ALGII beneficiaries in each of our regions. Ingolstadt and particularly Freiburg have considerably higher rent per BG than Gelsenkirchen and especially Greifswald. However, because the housing support subsidy is universal and independent of employment status, it is calculated according to a separate legal code (*Wohngeldgesetz – WoGG*). The *WoGG* calculates the rent subsidy by the number of individuals within the household and six rent-levels (*Mietenstufe*) reflecting local expense, with the actual amount in euros set periodically by federal law (*WoGG§12*). Although too complex

to determine in detail how closely housing subsidies match prevailing rent-prices – a good general indicator of the standard of housing given to welfare recipients versus overall standards for the population – the average expenditure per recipient in contrast to the highest possible individual subsidy in the *WoGG* is indicated in the front column and the right-hand axis. It suggests that the standard of living among ALGII recipients is actually rather close to the prevailing universal standard. Because 1) the ratio described above is relatively equal; 2) housing subsidies are paid independently of ALGI and ALGII (AV16), and 3) my personal observations alongside those in the *Armutsdynamik* data on the conditions of housing by long-term ALGII, we can safely consider the Hartz Regime as offering reasonable housing independent of labour market status.

Graph 7.1 – Housing Costs²⁹

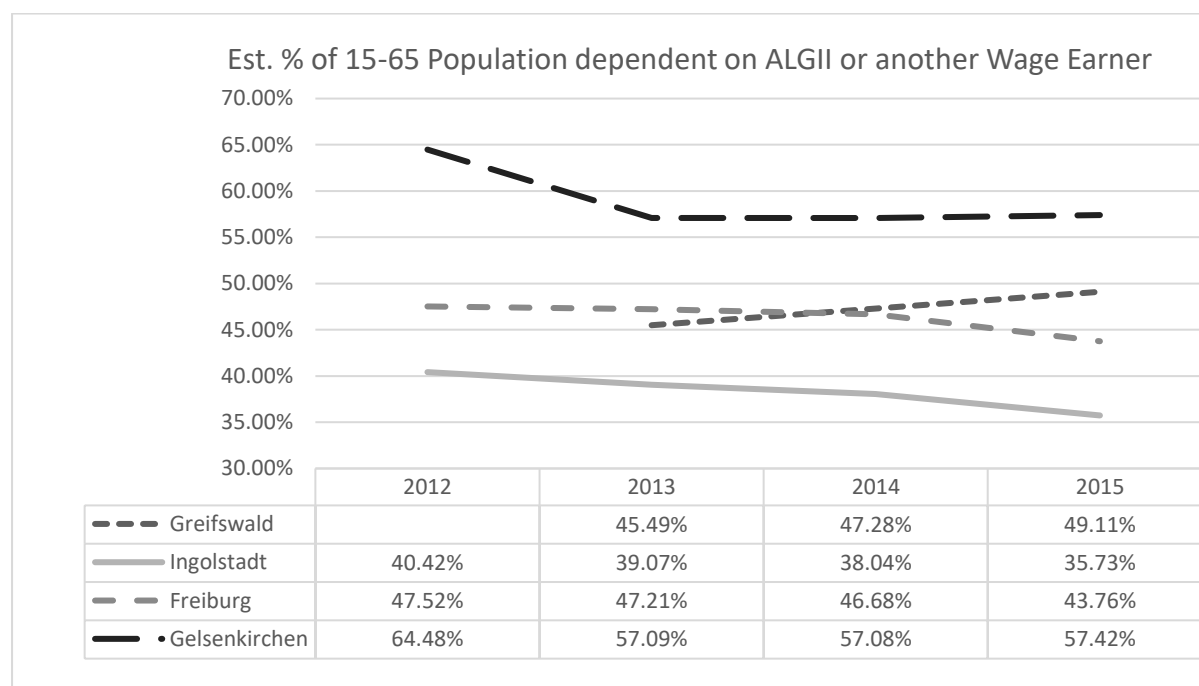


²⁹ See Appendix for sources and calculations.

I.A.1 – Conditions for Labour Market Integration among the Dependant Class

With the above basic need established and provided for by the Hartz Regime, we can now examine the conditions unemployed individuals from each region face when attempting to fulfil the moral duty to work elucidated in the previous chapter. Before further analysis however, we must investigate the number of individuals who actually qualify as dependants in the social structure. Drawing from the *de-familialisation* literature (Sainsbury, 1996; Esping-Andersen, 2009) and described in chapter 4, those in a dependent social position a) work in the home and subsist on the social norm of another wage earner morally-obliged to support them; b) receive ALGI or ALGII (ie. state dependants); and c) anyone who does *not* earn sufficient wages from employment to eliminate all welfare payments – with the latter category an increasingly prevalent phenomenon in dualised labour markets (Emmenegger, et. al., 2012).

Graph 7.2 – Proportion of Working-Age Dependants in the Regional Social Structure³⁰



³⁰ See Appendix for Sources and Formula

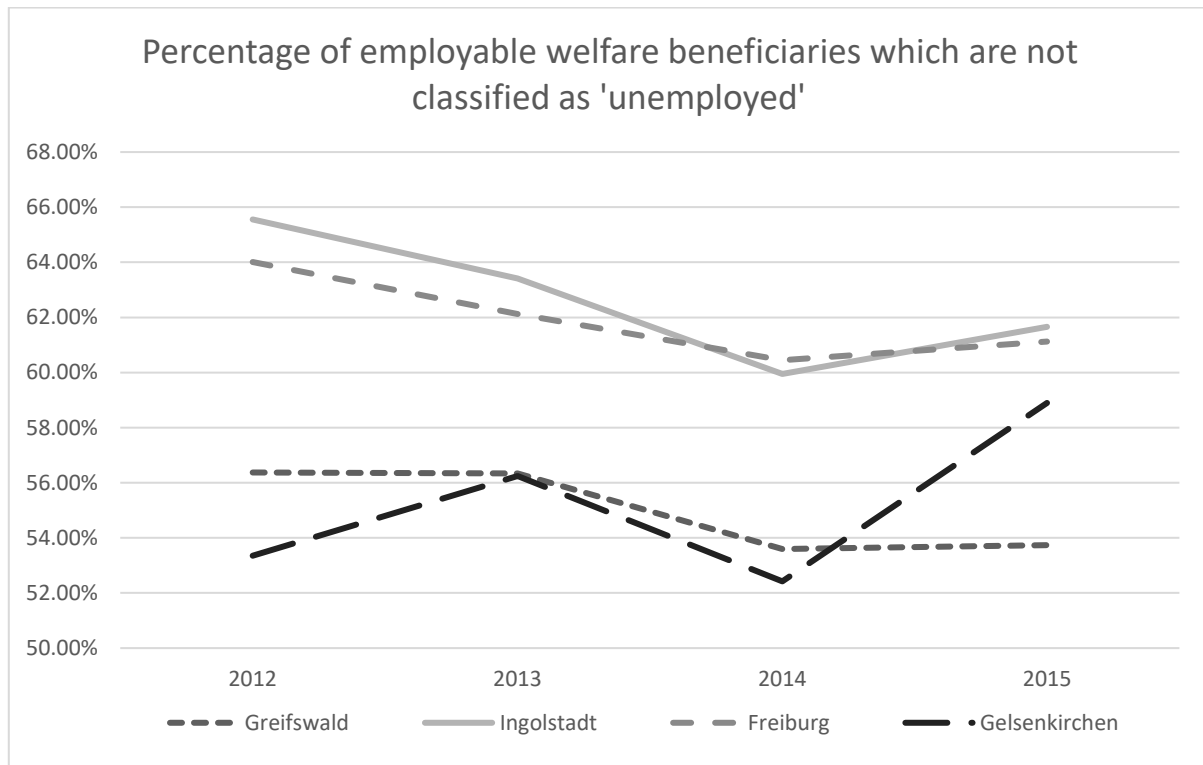
As is evinced in **Graph 7.2**, the number of working-age dependants varies widely between regions. Although there is a general tendency for regions with higher unemployment rates to have higher levels of dependants, the closest regions are Freiburg and Greifswald, whilst Gelsenkirchen has between 57% and 65% of the entire 15-65 population of the district dependent on state benefits or another wage earner. On the other hand, in the low-unemployment Ingolstadt district, the decline in dependency is pronounced from over 40% in 2012 to nearly 35% by 2015.

This statistical description touches on the lifeworld context in which individuals from each region inhabit as shaped by the labour allocation system. As is evident, the wage-work norm championed at the Jobcenter is not adhered to by a sufficiently large percentage of employable individuals to consider it a universal duty, despite the stigmatisation often accompanying dependency on Hartz IV (Dörre et. al., 2013). Instead, the experience of a normative constraint on non-participation in wage labour is decided by the distribution of income offered by the labour market for a given household. The degree of *de-familialisation* is clearly related to this distribution, with familial household dependency evidently more socially acceptable than state dependency. This in turn suggests that differentiated social norms are already operative within the dependant class – confirming the finding from chapter 6 that the state encourages someone like Frau E to remain dependent on her wage-earning partner rather than seek individual emancipation through the welfare system.

However, with the data at hand, it is impossible to disentangle those dependent on another wage earner 1) because care work is expected to be performed unpaid in the household following ascribed gender subordination; 2) because one wage earner is supporting a dependant coping with job loss in a high income BG (ie. Frau S before getting divorced); or 3) those who happily choose dependency on another wage earner. In any case, if between 35-60% of the entire employable population is not adhering to the social norm of integration through work,

then promulgating *SvpB* as a moral duty can hardly be considered just to state dependants, since they surely observe its lack of universal applicability by simply observing those around them in daily life.

Graph 7.3 – Not-Unemployed Employable State Dependants³¹



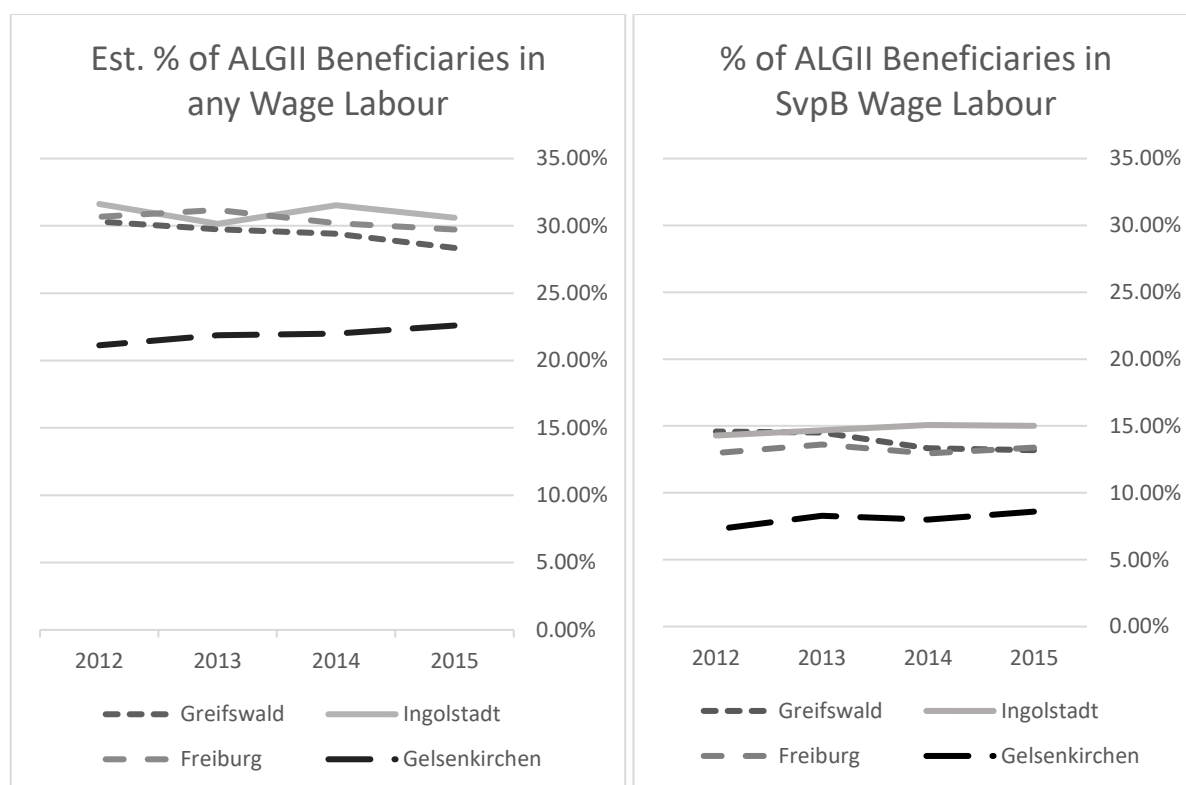
When examining Hartz IV dependants in particular however, **Graph 7.3** presents the percentage of employable beneficiaries (*erwerbsfähige Leistungsberechtigte*) which are not currently classified as unemployed – and therefore not facing immediate activation into the labour market. A number of different reasons may accompany this classification, such as participation in a *Maßnahme*, working a One-Euro-Job, vocational training, or even working over 15 hours per week whilst simultaneously receiving Hartz IV. As is immediately apparent,

³¹ See Appendix for Sources and Calculations.

more than 50% of individuals on ALGII in each of our regions at any given time are not legally classified as unemployed. These individuals are between 15-65 yet not over 58 if unemployed longer than one year (*SGBII§58a*), nor are they permanently disabled. Yet, because the majority are nevertheless classified as something other than unemployed, the statistic rather strikingly confirms the relative dearth of AVs in the previous chapter willing to activate Frau M, S, and E into the labour market before further training, processing towards early retirement, or directed towards the doctor for further evaluation. In addition, another element is playing a role for those in the dependant social position: many are actually employed – with the Jobcenter effectively subsidising firms to offer low-wage and low-hour contracts (Emmenegger et. al., 2012:Ch.1). Following Dörre et. al. (2009) among many others utilising the term, this group of individuals can be considered the ‘precarious workers’ existing in the limbo between welfare state dependency and full-time employment.

Graph 7.4 presents the estimated percentage of those receiving ALGII whom are also receiving earned income from wage labour, followed by ALGII recipients specifically in *SvpB*. With little change across the four years of observation, both demonstrate how the relatively static calculation of need in BGs is not necessarily met by integration into wage labour. The first graph empirically substantiates the real concern Frau M faces in her antipathy towards Minijobs – with between 25% and 30% of all Hartz IV recipients effectively gaining €100 or less per month above the basic Hartz IV payment, despite working for a wage up to 12 hours per week. The second graph demonstrates that even if an individual obtains a contract for *SvpB*, thus above the Minijob threshold, they still may be dependent on the Jobcenter for sufficient income to achieve the basic minimum provided by Hartz IV without working at all.

Graph 7.4 – Welfare and Wage Labour³²



In general, graphs 7.3 and 7.4 can either be interpreted as empirical substantiation that the state effectively subsidises low wages, or an illustration of the state subsidising employers to ensure the moral duty of work is fulfilled – regardless of whether or not it results in independence from the Jobcenter. Indeed, as shown below, some Jobcenter clients question the use-value of these Minijobs and *Maßnahmen*, instead suggesting they are merely designed to keep up the appearance of working welfare dependants. In short, they are designed to enforce conformity to a social norm. Overall however, **Table 7.1** presents an estimated total percentage of *SvpB* which is effectively subsidised through ALGII payments from the Jobcenter. It indicates that the vast majority of *SvpB* does not pay so low as to require basic welfare to top up insufficient wages. As will be shown in the next two sections however, this does not

³² See Appendix for Sources and Calculations.

necessarily mean that the private labour market is generating sufficient work contracts to make the moral duty to work universally achievable. Before proceeding to these descriptions however, I will now turn to some basic characteristics of those who are facing the duty to shift from the dependant social class described above into the working class – generally those who are actually classified as *unemployed* by the BA.

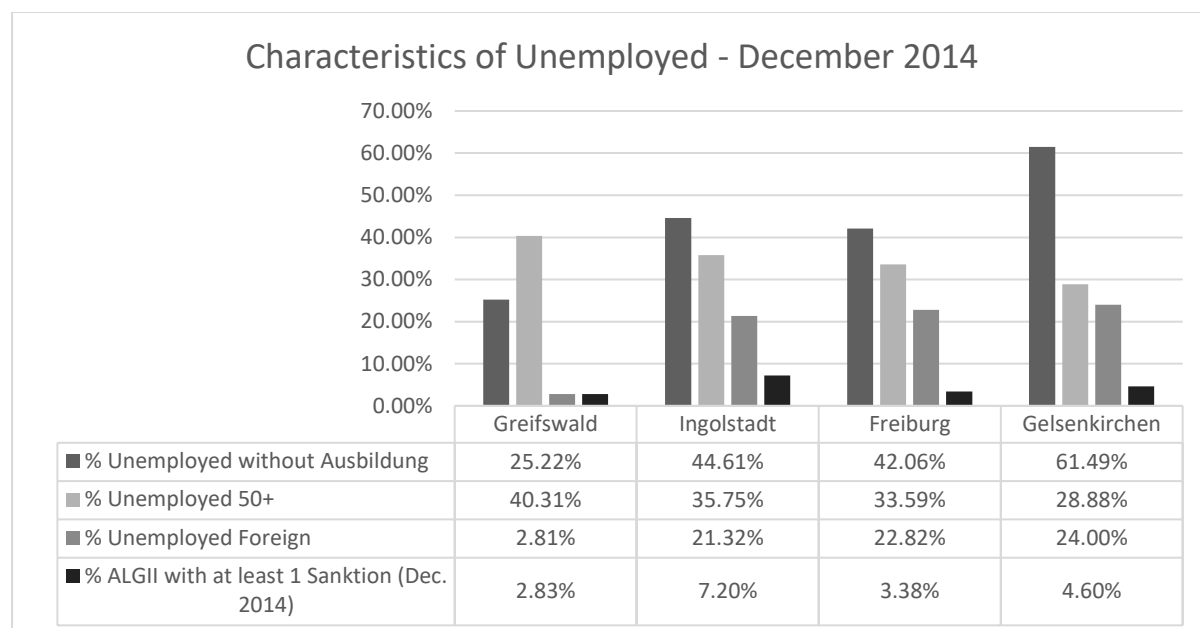
Table 7.1 – Total SvpB subsidised through ALGII³³

	2012	2013	2014	2015
Greifswald	4.93%	4.78%	4.12%	3.80%
Ingolstadt	0.52%	0.51%	0.50%	0.50%
Freiburg	1.15%	1.14%	1.09%	1.11%
Gelsenkirchen	2.65%	3.00%	2.95%	3.22%

Each of the vignettes offered to AVs represent a typical characteristic of those who are unemployed and capable of working in the labour market: insufficient education (Frau M); aging skills and long-term unemployment (Frau S); and resistance to despotic conditions in the household or work site (Frau E). **Graph 7.5** presents the characteristics of the first two elements directly for those classified as unemployed by the BA at the onset of field research in January, 2015. It also presents evidence for potentially alternative social norms by the ‘foreign’ classification explored in the previous chapter. Again, the characteristics of the unemployed vary widely across regions, with Greifswald demonstrating a relatively educated stock, yet many above 50 years of age, whilst Gelsenkirchen holds a poorly educated yet younger population.

³³ See Appendix for Sources and Calculations

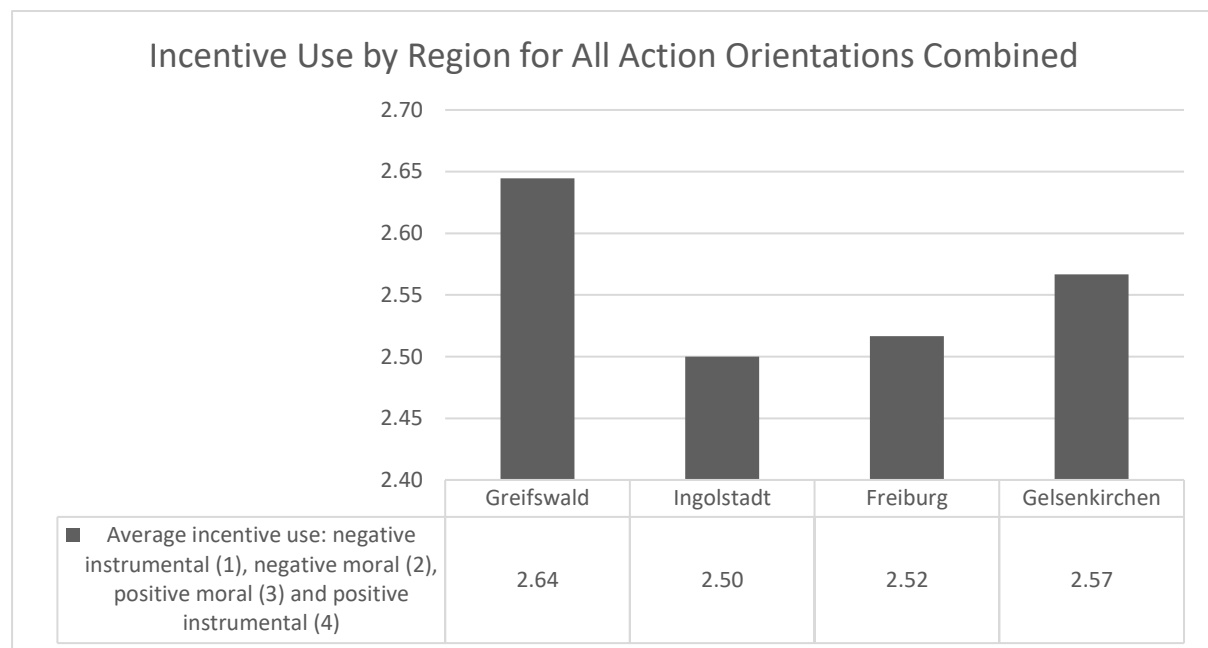
Graph 7.5 – Characteristics of the Unemployed³⁴



Also of note in Graph 7.5 is that Ingolstadt, although functioning under identical procedures throughout Germany, sanctions a larger percentage of ALGII recipients. This follows a pattern unearthed in the previous phase of analysis expressed in **Graph 7.6**: Ingolstadt also employs more negative incentive structures when facing Frau M, S, and E – indicating a general thrust towards activation more than any other region. Although stopping short of claiming causality, the distribution of positive versus negative incentives in Graph 7.6 corresponds exactly with the unemployment rate in Graph 5.1 – and closely matches sanctioning in Graph 7.5, excepting the more prevalent use of sanctioning in Gelsenkirchen than Freiburg. As will be revealed throughout this chapter, Ingolstadt is an outlier in a number of different measures, suggesting both the culture and the economy of this central Bavarian district – headquarters and major production site of Audi – exhibits characteristics of the Hartz Regime functioning as intended by the more draconian letter of the law.

³⁴ For sources, see Appendix.

Graph 7.6 – Regional Parity of Participation



In light of the moral duty to work, the above statistical descriptions demonstrate two contrary phenomena which undermine the universality of this duty. First, there is social differentiation *within* the dependant social position – particularly the acceptability of dependency within the household but not within the community – suggesting this ostensibly universal norm is not universal. Secondly, the strong prevalence of normative reasoning among AVs explored in the previous chapter, alongside the substantial proportion of state dependants who are also working, suggests that the BA is fixated on generating employment regardless of its instrumental use-value for either the state or the dependant. In order to examine how dependants themselves perceive this situation, I will now turn to their interviews.

I.A.2 – Reasoning with the Dependant Class: The Distribution of Moral Duty

Unemployed individuals receiving either ALGI or ALGII interpret their situation in many different ways. The following section will examine the moral duty to work first – explored particularly through the Frau M vignette and her aversion to Minijobs – followed by notions of moral responsibility for employers explored through the Frau S vignette. Although each interview with this sample group was conducted in much the same way as those with AVs, they were less structured and more focused on how their personal experiences and belief systems interacted with the general themes of both the thesis and those articulated at the Jobcenter. As identified in the previous chapter, a major theme of communicative action at the Jobcenter is the importance of work beyond money accumulation. Cited were elements such as social participation to overcome isolation, the importance of recognition through labour, and simply getting up early and structuring one's day in a manner aligning with the social norms of the German lifeworld. A wide array of reactions to this notion were evident when discussing the Frau M vignette, however, the majority appeared to also accept this standard.

Although most found Frau M's aversion to Minijobs understandable, with some pointing out how the extra €100 was easily lost anyway due to the costs of simply leaving the house, getting to work, and performing the job adequately to keep it, the emphasis on personal development was frequently cited, exemplified by the following discussion (K1):

K: "Personally, one needs a role [*Aufgabe*]. Not only staying at home. One also wants to accomplish something [*etwas schaffen*]. A man wants [this]! I see this a bit in the capacity of a man. If a man doesn't have enough to do, they don't feel well."

I: Work is not only for a wage?

K: Actually not. [It is] also for personal development. One gets to know people and [is] not left so alone. If you only obtain [*weiter bezieht*] ALGII, you are in

principle only at home. I mean, I am here in my owned house [*Eigenheim*] that is a bit different than a shared flat. A shared flat has a bit more contact.

I: Do you have experience of isolation when unemployed?

K: That is my view. I am now over 2 years unemployed [voice shakes] and [pause] one is psychologically stressed. If one has no work. Alone already when the wife goes to work early, and I stay at home and am discontent [*unzufrieden*]. I am discontent in my situation.”

This feeling of isolation accompanying unemployment was somewhat prevalent, particularly for those rather recently unemployed or somewhat older. The above exchange impressed a definite sense of what occurs when the moral duty to work, which closely replicates discourse at the Jobcenter, is adhered to as an element of the lifeworld. When an individual nevertheless cannot find employment under these set of social norms, isolation and self-doubt takes a psychological toll. Although the above demonstrates how this social norm becomes embedded in a psychological condition, the interviewee below links how the above moral self-image is reflected in the local community (K3):

“If now other people, if they see the woman is 24 [Frau M] – ok, one must again differentiate. In Berlin there are very very many Hartz IV recipients, very many. It is normal. In a small city, it is not so. One knows the people, and when one sees, she is 20-24, if she studies, has a Diploma, everything, and lives on Hartz IV, then there is a moral problem with other people. Therefore, it would be also better to take on a Minijob, because she can always say ‘Yes, I work but I am not getting any permanent job [*Feststelle*], 40 hours, appropriate to my education.’ Then there are fewer problems with other people. No doubt. I know

it myself. I have experienced it myself. People say, ‘yeah, why? You can do anything!’ But things they wouldn’t do themselves.”

Although the above illustrates how local lifeworlds have different social norms despite the same laws, it also suggests how the legal attitude within the Hartz IV reform reflects a distinct moral attitude towards work prevalent in the community. Indeed, this client suggests that a Minijob has no instrumental value at all in terms of accumulation, but instead allows the state dependant the semblance of social conformity. When asking the same question to an individual unemployed for over 10 years, the following response reflects the emerging dilemma at the heart of ALMP experienced as normative reasoning by the unemployed: the inability to fulfil expected social norms (K4).

K: “I believe that she should give some effort, to really be independent. With the means to try to get out of this ALGII. That would be very important for her, because only then can she preserve her identity [*Identität wahre*].”

I: Because what happens in ALGII?

K: “That would be critical, because she would slip [*rutschen*] always further into her situation, would become very much dependent, more and more, every year more. And she would not handle it well [*nicht gut verkraften*]. Every year is getting worse.”

I: in ALGII?

K: “In every case [*Auf jeden Fall*].”

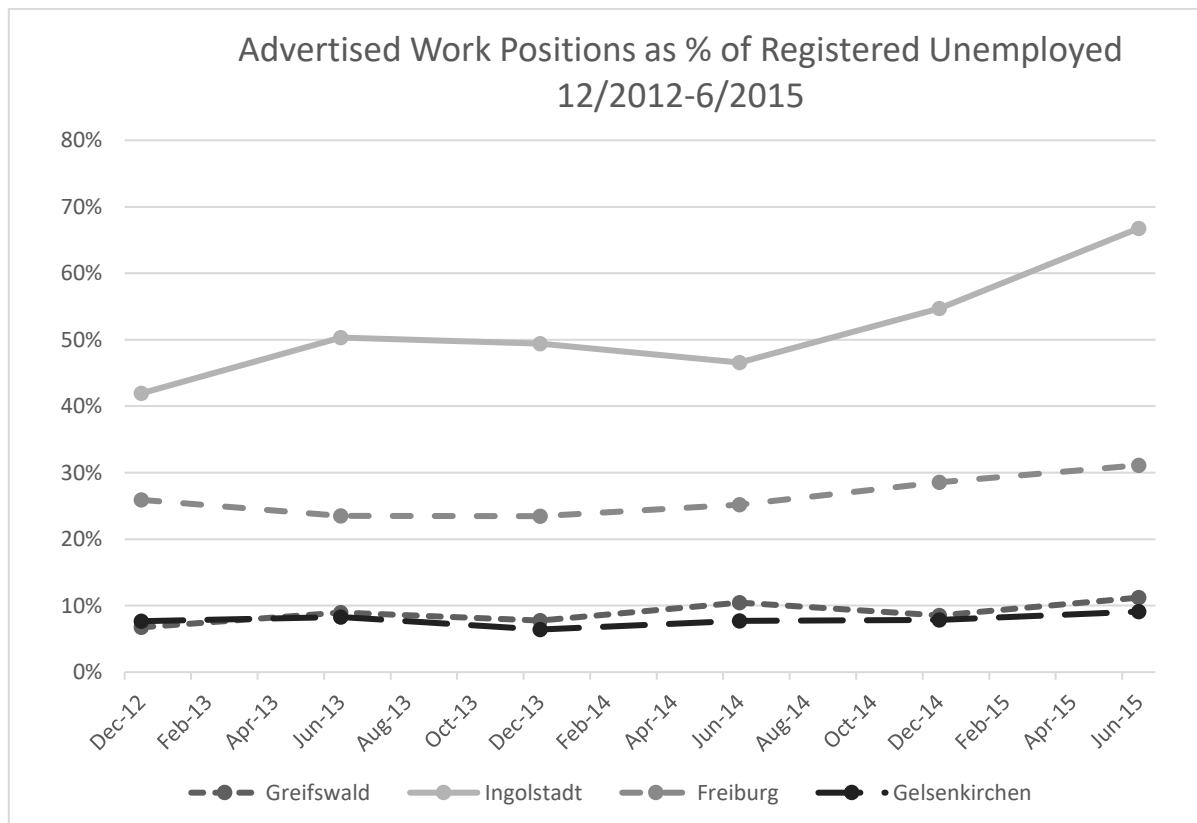
I: Why?

K: [switches to English] “You have no chance! You have no chance!”

The dilemma is that despite a moral duty to work for those who are unemployed, the chances of finding work not only vary by education and age, but simply by the condition of the local

labour market. **Graph 7.7** illustrates the problem in a basic way by tracking the development of local labour market conditions: the number of advertised jobs available over the number of registered unemployed.

Graph 7.7 - Labour Market Structure³⁵



As is evident, from this basic ratio, we can surmise that the labour allocation system does not have the capacity to universally supply jobs to those who have a duty to work according to the moral incentive structures operating at the Jobcenter – let alone the entirety of the population in the dependant social position. Even in Ingolstadt, the region with the lowest unemployment, between 30-50% those registered as unemployed (in both ALGI or ALGII) are

³⁵ See Appendix for sources and calculations.

unlikely to find immediate work. This number breaches 90% in Gelsenkirchen and Greifswald. As this client (K4) expressed, the longer one is in ALGII, the less likely one finds work, with later portions of the interview indicating they preferred to work in *Maßnahmen* for precisely the same reasons as others adhering to the social norm of work: getting up early and accomplishing tasks throughout a structured day.

Indeed, *Maßnahmen* are considered useless in ‘rehabilitating’ individuals into the open labour market, but therapeutically effective in granting the long-term unemployed the semblance of fulfilling the work norm. A client (K3) remarked regarding Frau S’s possibly undertaking a *Maßnahme*:

“After this *Maßnahme* she is again unemployed. I have myself the experience, that certain *Maßnahmen* have no use, absolutely no use. Just the statistics are better and from this point of view, when she is in a *Maßnahme*, she is no longer unemployed. That means the person is no longer in the statistics. But in reality she is unemployed” (K3).

Beyond the blunt quantity of jobs available, when examining the interaction unemployed individuals have with the BA, the quality and mutual acceptability of the offered job also plays a role, elucidating an important aspect of the lived experiences of the unemployed. Whilst one interviewee argued “I find it enormously important that your work is actually fun” (K2), a more prevalent focus was on whether the job aligned with their skill sets. In a number of different interviews, the clients argued that they were often placed in or advised to seek jobs which did not align with their certified education and thereafter found it difficult to accept. The following anecdote illustrates:

“I am an electrician, and have been an electronics engineer, and was for many years in a professional status. I had now tried to get an offer. The job was alien

[Fremde] for me to work with as an electrician. And the one offer was in a firm where I should install an entire house. Alone. But I am, I am there alone and have no experience with this. I could not accept this job” (K1).

Further discussion on this anecdote revealed the client had training in industrial electronics rather than wiring for houses and felt that, without on-the-job training, which was not offered since the position was a temporary support role, it would create unrealisable pressure to comprehend the new trade sufficiently whilst reaching performance goals. This indicates a skill mismatch of a very specific nature alongside an unwillingness among employers to invest in on-the-job training for temporary staff.

Corresponding to this issue, many unemployed are unwilling to take on jobs below their skill-sets later in life – as this interviewee remarked reacting to the Frau S vignette: “I have also received recommendations for a Call-centre. I told my [AV] that I absolutely would not be up for that at all [*absolut überhaupt nicht liegt*], and she had accepted that” (K5). In addition to an aversion to providing on-the-job training for aging new-hires (AG1), both the instrumental and normative valorisation of specialised skill formation, often celebrated in coordinated market economies (Hall and Soskice, 2001), is undermined with the depreciation of skills over time. Although retraining seems the obvious solution, Hemerijck’s (2013:386) argument that “the choice of longer employment crucially depends on the on the quality of the workplace and the health supports that match their competencies. If workplaces can be made more attractive to older staff, the trend towards exodus into retirement will wane” seems absurd when placed alongside the on-the-ground research here. The problem clearly lies in the supply-side myopia of the SIP which ignores the logic postulate that employers are unwilling to hire older workers and provide them with on-the-job training. As one client remarked: “Who hires skilled labour (*Fachkraft*) at 63, with only two years to go!? There are X other applicants the employer can use that are 10, 20, 30 years younger [and] are more flexible” (K5). Even with a

retirement age extended as far as 70, Frau S will find it difficult to compete with much younger workers in a labour market where more applicants exist than job offers.

An element of key importance in the relation between dependency and employment when viewed from the perspective of moral duty is thus the dissonance many unemployed face when they confront the expectations of employers. Dissatisfaction and perceived shirking of duty are therefore often directed towards employers rather than the Jobcenter. This dissatisfaction occurs both in the process of actually fulfilling the goal of Jobcenters, namely reducing one's *hilfebedürftigkeit* on ALGII, as well as expectations of reciprocal moral duty directed at employers after many years of loyal service.

Regarding the first, despite the considerable celebration of ALMP articulated by SIP advocates (Morel, et. al., 2012b; Rueda, 2014), not only does the above assessment of *Maßnahme* question the qualitative value of such policies, despite their positive influence on unemployment statistics, the anecdote below illustrates the moral problems with such programmes as experienced by both clients and undoubtedly Jobcenter personnel as well:

“For example, last year for three weeks, I had only causally mentioned [to a firm the client had applied to work for six months earlier] that perhaps the Jobcenter pays a bit of money too. And immediately he called in: ‘how high, how much’? They see immediately that one can also receive money from the state. And that, I find absolutely not so right [*digression*]... But of course immediately people in the firm say, ‘yes, I take you only when I get money from the state for half a year in exchange’ – that is not right. Because in consequence the state must pay even more for what the firm actually must pay. For the firm it is practical: one receives a person for half of the money for one year. And

many do this, they really exploit this [*ausnutzen*]. They take the person for a year, then: ‘Please go. Next please!’” (K3)

The anecdote illustrates the straightforward instrumental reasoning some firms hold regarding activation measures seeking to generate employment. Although Frau M is normatively constrained from this kind of instrumental reasoning in pursuit of maximum accumulation, it evidently does occur among employers who regularly interact with the Jobcenter. In short, they hire individuals only if it is subsidised by the Jobcenter because it is profitable to do so, and when it is not so, the employed person returns to state dependency. Moral duty plays no role.

The second observation validated the previous chapter’s illustration of the contradiction between Frau M and S. On the one hand, the young person has the moral duty to adhere to the social norm of work, bolstered by certified education tied to specialised employment, in turn fostering firm loyalty. Yet, Frau S’s conforming to precisely those social norms was followed by firm insolvency, unemployment, and Hartz IV before a reduced early retirement. When asked how much Frau S is responsible for her situation, one client responded:

“She had worked. I can see this from my point of view. If the firm [*Betrieb*] is insolvent, normally the employer failed. And when the firm is going bankrupt [*Insolvenz*], I don’t know if it is, but surely she would not have quit after 25 years. In this, she loses her specialised skills [*bestimmte Kompetenz*] with the firm. If the firm is bankrupt, I take my case, that is then the employer’s fault. And then the employer must assume [*gezogen werden*] more responsibility. It is, yeah, also it’s task to listen, it cannot simply say there are no more orders [*Aufträge*], it is bankrupt. It is also incomprehensible that many firms have many orders, but are anyway bankrupt. Why? How does that work? Bad management. Bad planning” (K1).

Many years of specialised skill formation by Frau S makes quitting unlikely and therefore binding her moral recognition to the success or failure of the firm. This dilemma was likewise experienced by this client, who stated “In principle, this is my situation” (K1) when referencing Frau S. In short, the normative rationality of worker loyalty and specialised skill formation are not reasoned about in a normative way by firms declaring bankruptcy. Combined with an acceptance and belief in the moral duty to work, as well as its importance for personal development and sociality, the only plausible reconciliation of this dissonance is to expect moral duty to workers in firm policy. The client thus argued:

K: “The employer also still has a societal duty to care for labour, and it fails to fulfil it.”

I: And do you have the experience with this development over time? Since the 90s or?

K: “Earlier a bit more.”

I: Is there a change?

K: “There was no change. They don’t abide. [*Er hält sich nicht ein*]. The company [*Unternehmer*] must also care for its labour, for its people. And in some cases, insolvency is being declared [*angemeldet*] too easily. It has a duty to care for its labour and also for workers, for labour.”

Echoing the logic above, dependants almost universally expressed a belief that employers did not reciprocate the moral duty workers were expected to have towards work. The question going forward is, do they? And if not, why not? Before proceeding however, I must highlight that not every unemployed state dependant shares this view of unreciprocated moral duties and eventual abandonment by an instrumental system they view under the rubric of normative

rationality. Some also view Hartz IV and any kind of relation with employment or welfare with purely instrumental rationality.

The following demonstrates a particular rationalisation to the question focused on Frau M's aversion to working Minijobs whilst netting little extra money per month: "Acceptable. It is acceptable. What should she [do], should she make crumbs [*soll sie Krumen machen*]? If she can earn exactly the same money and enjoy her free time more? It's clear" (K6). When asked if there is a contradiction [*Gegensatz*] between what is rational as a labour market participation versus what is morally demanded as a citizen, the following response was given:

"As citizen? It has nothing to do [with that]. Germany is a rich country. It has money without end. For me, this is not a moral question, do you know? [*Weisst du?*] On one side, it is not good for the state because if she works, then she would pay taxes. Yes? But on the other side, it takes in so much tax-money, in other areas, that it is already overflowing [*schon überflüssig*]. I find it neither philosophical nor moral, I will say direct: take in as much money as possible from the state if the possibility exists" (K6).

Yet, when confronted by the question of whether or not the employer had a moral duty to pay workers sufficient wages so they did not have to subsist off state support, the following dialogue ensued:

K: "In my view, yes. But that is not always the case."

I: Do you have experience with when one must work but also receive ALGII?

K: "Yes, or no. I must not work. Then comes the sanctions for that, if one doesn't take any work, and when I don't feel like working [*kein Bock zu arbeiten habe*], I have no desire to work, no? And then they want something, then it's as much as a €400 job, then they see a bit of work and anyway I receive

my ALG. Or there are always the front companies [*Scheinfirmen*]. I can call up a colleague and say ‘the *Arbeitsamt* is giving me a goal [*Sach*], can you hire me? As anything.’ They hire me as something, in their firm [where] they are themselves, then I go to the *Arbeitsamt* and say, ‘ok, everything is clear’ but lessened, 200 or 400 euro per month, I get the money from the *Arbeitsamt*, or from them, then I pay them back, do you see? And the *Arbeitsamt* gives me achievement of the goal [stamping motion]. If one doesn’t want to, then one must not work. I am punkrock, don’t you know? So I don’t gladly work. I love free time” (K6).

This is a purely instrumental assessment of one’s individual relation to the Jobcenter designed to maximise individual utility and expressly disregarding the moral duty to work. Although undoubtedly fitting in with Mau’s (2002:17) characterisation of Anglo-Saxon critiques “that the welfare state had become ‘a strategic environment in which people operate as calculating entrepreneurs’ (De Swaan 1988:229),” it is not the purpose of this empirical exploration to make judgments about the moral validity of calculating welfare entrepreneurship. Instead we must ask: under what, if any, conditions are calculating strategies towards work and welfare considered normatively acceptable? It is important to note in this context that the term *Scheinfirmen* is more frequently applied to the type of firms headquartered in Panama or other offshore banking sites for the purposes of tax evasion by major international corporations (see Böcking, 2016). As we climb higher in the social structure of the Hartz Regime therefore, we shall see how the instrumental logic of functional differentiation can be used to justify many behaviours prohibited for one group but acceptable for another – leading to the fragmentation of ostensibly universal social norms into diverging standards of moral duty. The next position in the social structure to be examined are those actually working, which

are traditionally represented by trade unions – the target group of interviewees in the next section.

I.B. - The Working Class

Accompanying the trajectory towards dualisation in the German labour market under the Hartz Regime has been the “increasing fragmentation and partial erosion of collective bargaining” (Schulten and Bispinck, 2014:2). This development has in turn resulted in the decline of organised working class power (*Ibid.*) illustrated by declining union density. It has been demonstrated in CPE literature that “declining in union density has allowed an increase in wage dispersion and thus market inequality” (Huber and Stephens, 2014:264) – a trend likewise experienced in Germany. With inequality and wage stagnation suppressing German consumer demand, “the importance of the export sector increased sharply in the 2000s, growing to more than 50 per cent of the country’s GDP in the years 2011 to 2013” (Schulten and Bispinck, 2014:14). Dualisation has also accompanied this shift towards exports, with major industrial firms outsourcing support services to other firms utilising more precarious labour contracts largely outside the standard collective bargaining agreement (Hassel, 2014; Schulten and Bispinck, 2014).

However, although suffering a number of declines in power since the onset of the Hartz Regime in 2005, between 2011 and 2015, union organisations have secured both wage increases for those in regular employment, as well as a federal minimum wage for the first time in Germany’s history. Nevertheless, when compared with the normative reasoning emanating both from the Jobcenter and interviewees representing unions, particularly regarding Frau M and the importance of social integration through regular employment, the moral duty to work remains firmly embedded in the social norms of the working class. This again leads to a

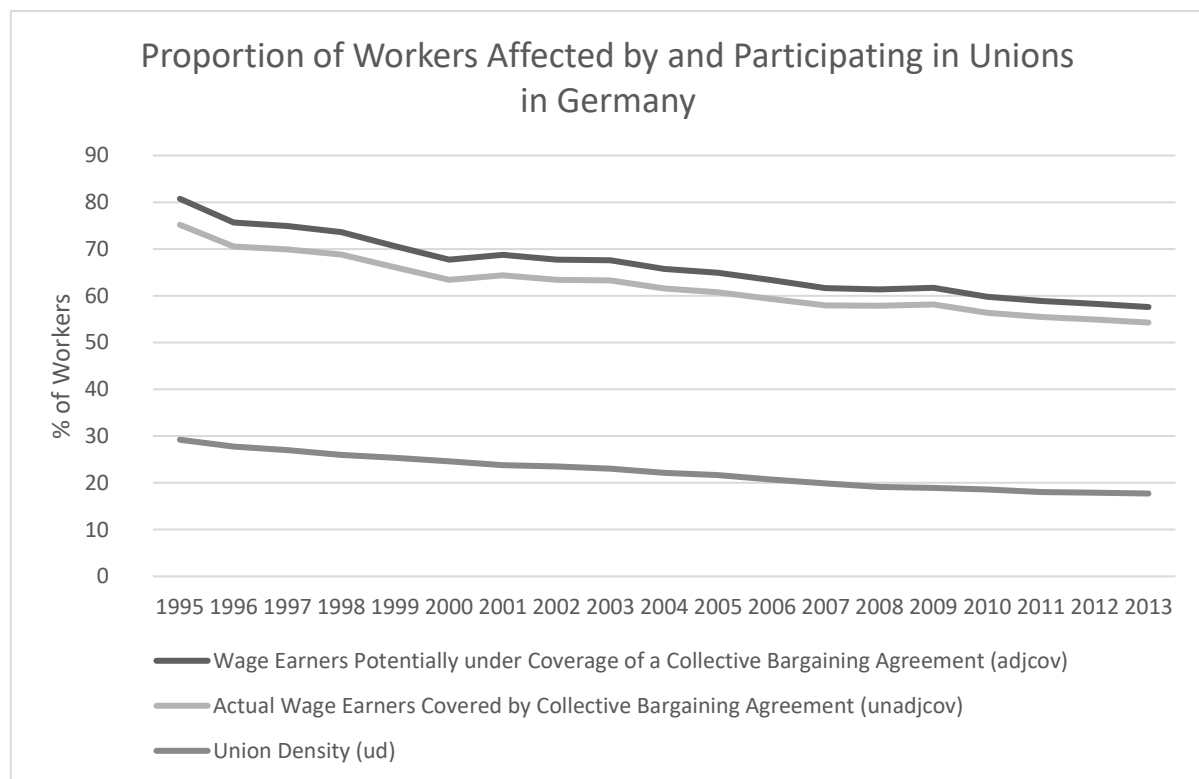
contradiction between what is offered by the system in terms of realisable standard work roles and what is expected of a given individual.

1.B.1 – Conditions of Employment among the Working Class

The basic dilemma at the heart of Offe's (1985:Ch.7) 'Two Logics of Collective Action' is that the effectiveness of collective action among wage workers is based on their 'willingness to act' through adhering to the social norms of working class solidarity, whilst, on the other hand, employers engage in collective action based on a calculable self-interest with action premised on members' 'willingness to pay' (Offe, 1985:185). Since the mid-1980s, the German corporatist model has been in steady decline, with qualitative evidence suggesting an exodus from employer associations (Streeck, 2009:47-49) as well as an overall decline in the number of workers engaging in working class collective action. This in turn suggests that employers are losing interest in the corporatist model, whilst workers are less motivated by social norms of solidarity.

Graph 7.8 presents the most basic categories of working class participation in collective bargaining. Although some quantitative indices of enduring corporatist structures mask qualitative changes on the ground (See Jahn, 2014), it is clear from this descriptive data that fewer working Germans are covered by collective bargaining agreements (the *Tarifvertrag*) and fewer participate in collective action through union membership. In 1995, nearly 80% of all employed Germans were covered directly by the *Tarifvertrag*. Precipitous declines followed from the late-1990s onward. The scale of the decline is demonstrated by the fact that only 54.3% of actual workers were covered directly by the *Tarifvertrag* by 2013. Likewise, in the same time period, the percentage of workers in unions declined by nearly half, from 29.2% in 1995 to 17.7% by 2013.

Graph 7.8 – Union Influence on the Working Class³⁶



Subsequent developments have been relatively positive for the core working class however, with substantial wage increases secured in a number of industries by 2014, as well as the politically-instituted national statutory minimum wage (Bispinck/WSI Tarifarchiv, 2014). These increases ultimately led to conflict by 2015, when disputes between unions in the national rail services as well as with ‘new economy’ firms such as Amazon, led to a number of strikes occurring simultaneous to field research (Bispinck/WSI Tarifarchiv, 2015). With strong economic growth in the early 2010s, a question emerges as to *how* unions were able to secure wage increases despite declines in membership and coverage. Explanations suggest either through increasing pressure in the public sphere directed towards the moral duty of firms to

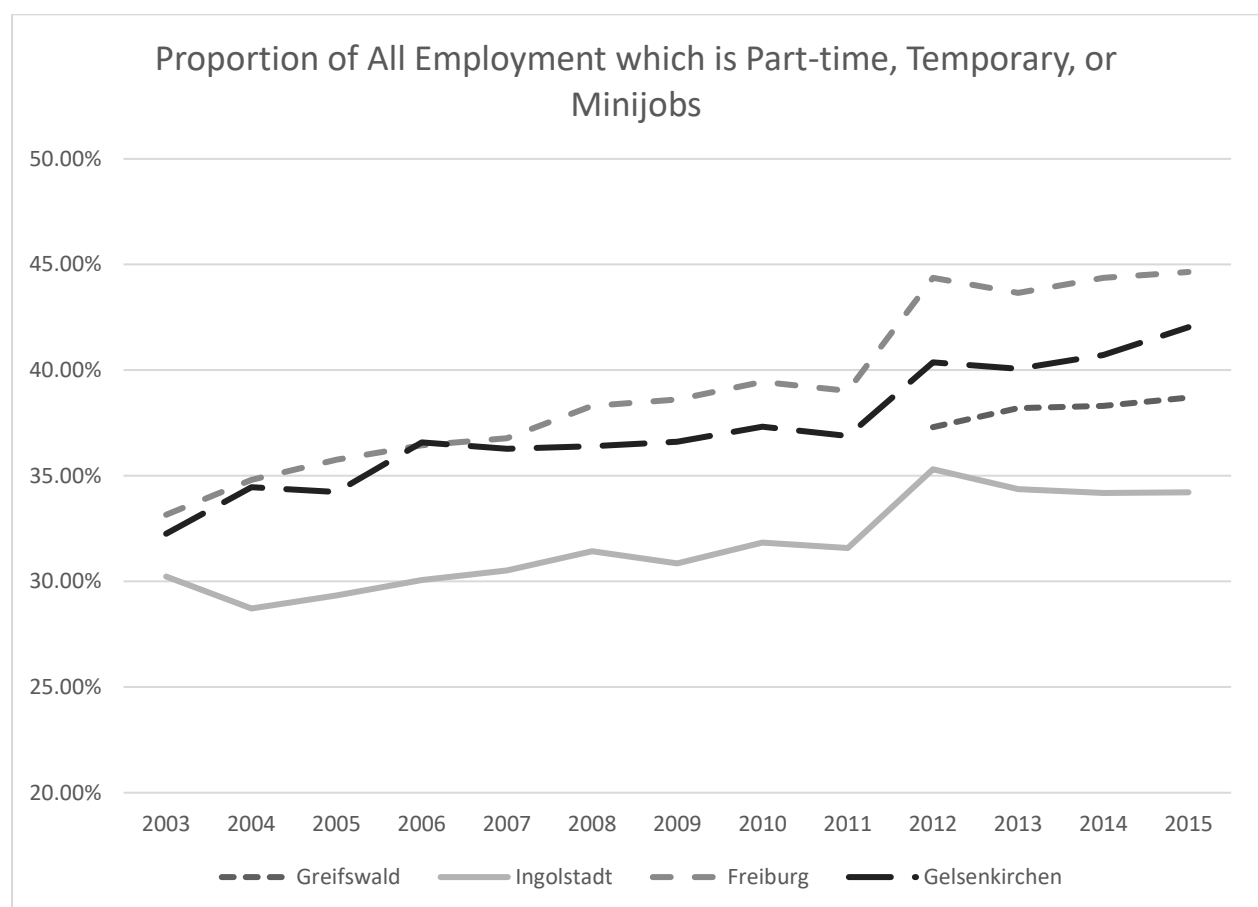
³⁶ Source: Visser, 2016

pay more, or a simple strategic advantage emerging from lower overall unemployment. Revisiting the INSM nearly 10 years after the Hartz reforms, Kindermann (2014) suggests a combination of both, particularly a shift of public discourse towards the importance of social justice. According to Kindermann, the INSM was forced to address the question of social justice due to a normative shift in public sphere discourse, having previously adhered to instrumental arguments of necessity based on reified neoliberal principles of wage and tax competition – principles which were more critically scrutinised following the 2009 financial crisis and the ongoing effects of the Hartz Regime. We can interpret these trends as a recent increase both in the normative power of arguments focused on distributive justice in the German public sphere, as well as the strategic power of core workers exercising instrumentally rational threats to strike as a means to the end of greater accumulation. However, the number of individuals who are not part of the core workforce continues to increase simultaneously, leading to the question of whether or not union organisations also consider specialised, full-time *SvpB* enjoyed by the core workforce should be a universal social norm, and if so, why a large and increasing percentage of workers cannot achieve it.

Graph 7.9 presents the proportion of overall employment contracts which are not of the standard, full-time *SvpB* form. These include Minijobs, part-time jobs, and temporary jobs. This descriptive statistic represents those who vacillate between dependency on another in the household, such as married women who take up part-time work or Minijobs, as well as those who vacillate between dependency on the state through ALGI and ALGII payments, and full subsistence on wages in temporary or high-paid part-time jobs. As is clear by 2015, over 40% of all wage-labour contracts are not of the standard form in Freiburg and Gelsenkirchen, with nearly 35% for Ingolstadt and slightly more for Greifswald. Alongside a general trend towards more precarious labour, the sharp uptick during 2011 indicates a large increase in flexible auxiliary workers accompanying market shifts – likely the considerable expansion in German

economic growth and exports in this year (Bispinck/WSI Tarifarchiv, 2011). Considering this uptick, Hassel's (2014:59) observation that, "firms actively pursued a strategy of separation of the workforce, which divided the employees into core and fringe workers" suggests wider fluctuations in the economy lead to greater changes for the precariously employed working class. Macroeconomic shifts are immediately transferred from firms onto auxiliary workers in part-time and temporary contracts, effectively unloading risks to profitability and production normally shouldered by firms onto the labour market and ultimately the state. This is an already noted feature of German labour market dualisation (Palier and Thelen, 2010).

Graph 7.9 – The Precarious Working Class³⁷



³⁷ See Appendix for Sources and Calculations

However, Hassel (2014) also suggests that works councils within firms have a considerable role in this process, instrumentally protecting their position at the expense of the essential solidarity norm among the working class (Offe, 1985:Ch.7). In further research regarding this issue, I consulted annual collective bargaining reports from the research arm of German union's centralised foundation for education and advocacy, the Economic and Social Scientific Institute at the Hans Böckler Stiftung (*WSI*). Reporting from 2011 to 2015, the notion that union organisations abandoned the working poor to precarity at the expense of core members is questionable. Instead, a number of different qualitative issues have been on the agenda – particularly the push for a more equal relationship between permanent full-time staff and the expanding proportion of precariously employed individuals. For example, of key importance following the rise of temporary agency work has been equal pay. Nevertheless:

“The trade union call for the application of the ‘equal pay principle’, under which agency workers should receive the same wages as direct workers at a client company from the first day of an assignment with a corresponding statutory provision, met without success despite rising political pressure. The Federal government rejected this proposal, instead calling on the collective bargaining parties to deliver a joint proposal” (Bispinck/*WSI Tarifarchiv*, 2011:15).

Although a settlement was agreed the following year by unions in the metalworking and electrical industries, “the first time that the conditions under which temporary agency staff are deployed had been regulated in a collective agreement in Germany” (Bispinck/*WSI Tarifarchiv*, 2012:12), the primary oversight of work contracts secured by unions remained within firm-specific works councils, with many provisions designed to prevent temporary

workers from taking the jobs of full-time staff. This suggests that a conflict between firms and core workers over the use of precarious employment exists, but as we approach the micro-level of works councils, core workers seek to elevate the status of precarious workers through overarching union structures, whilst protecting their permanent contracts from them through firm-specific bargaining structures. This could represent an injustice, as the general thrust suggests application of an equivalent normative reasoning, yet the specific behaviour of works councils suggests a defensive posture indirectly facilitating dualisation. In order to determine if the general normative constraints on non-participation or subordinate participation were universally applied therefore, I conducted the same interview procedure with 4 representatives of union-affiliated bodies, which in turn represent the social position of ‘labour’.

1.B.2 – Reasoning with the Working Class

Interviews and supporting research with union representatives demonstrate: first, normative reasoning justifying the moral duty to work for the unemployed is indeed present; secondly, an antipathy towards the Hartz Regime in general and a specific tendency to view the system as inefficient and contradictory; and thirdly, normative reasoning criticising the role of firms for not offering good jobs, as well as their responsibility to pay sufficient wages to eliminate state dependency. I did not find any implicit or explicit formulation of double standards between unionised full-time employed, and non-unionised precarious workers.

Regarding the moral duty to work, interviewees tended to exercise normative reasoning about work in much the same way that AVs and some unemployed – aside for a slight penchant to emphasise the social component of work. This is illustrated for instance by the following response to what Frau M should do:

“I would recommend to her to go directly into the labour market. Do not stay in ALGII. For me, work has a somewhat different meaning than just earning money, instead it also has a social component. Collaborating (*Zusammenarbeiten*) with other people in teamwork is very important and is then appropriately respected (*entsprechend honoriert wird*), rather than only staying at home and getting yourself money from the state, or something equivalent. When the possibility exists, and at her apparent age, one can find work” (GR1).

Indeed, the rebuke of the instrumental rationality expressed by Frau M suggests normative rationality governing the orientation towards work for union representatives, expressed in the following:

“It is not often one who frets, ‘I like this because I earn so much money’, it is instead also a position in society, work, it is a connection to social life here in the area, social responsibilities (*Kompetenzen*), social obligations to friends and family, therefore it is for all important to get back into a profession (*Beruf*)” (GR2).

Work is described as the exclusive avenue towards independence, social status, and the position of a responsible person towards friends, family, and community. Due to these normative components, the financial incentive of work is less important – even to the point where precarious work for Frau M is better than not working at all. As we have already seen, this ostensibly universal norm of work is not adhered to by between 35% and 60% of the 15-65 population in our regions.

Nevertheless, despite the importance of the work-norm pervading communication among working class representatives, more specific reasoning accompanying the Hartz Regime also exists, as is exemplified by the following response to Frau M's aversion to Minijobs:

“I personally find that very understandable (*nachvollziehbar*), I would also not do that. Hartz IV drags the people into accepting badly paid work. It is an intervention in the freedom of the market. I have as a trade unionist always complained that the market radicalism is applied boundlessly (*uneingeschränkt gilt*) for capital and the companies, whereas the market freedom for the unemployed is restricted through the fact that they are forced to take on whatever is cheap. This is the so-called ‘reasonableness doctrine’ (*Zumutbarkeitsanordnung*) that one can only criticise, and I hope that it again won’t be made so indiscriminating. It actually needs compulsory employment (*beschäftiges Zwingen*) for anyone to accept the cheap work the market throws at them. That is the opposite of freedom – socially unjust.” (GR4).

Although we have seen that the coercive incentive is not utilised as readily by AVs as the law allows, the above differentiation between the freedom of employers and ‘capital’ versus the freedom of the unemployed is an important distinction. The differentiation effectively states that the free and flexible market for capital in the Hartz Regime is built on compulsory participation and the inflexibility for dependent and precarious workers. In short, the basic asymmetry of power intrinsic to the capitalist labour market (Offe, 1985:Ch.1), itself forming the basis of structural coercion, has been intensified under the Hartz Regime. Consequently, a situation arises where the rights and freedoms for some become duties for others – a key element of social injustice from system to lifeworld.

Furthermore, the statement “I find the Hartz IV system is not just. There is a lot of injustice in the identical treatment (*Gleichbehandlung*) of the long-term unemployed and those who absolutely won’t work” (GR4) was echoed frequently. This common criticism of the Hartz IV system argues that those such as Frau S whom have participated in the social insurance system through work should be treated differently than those in the dependant class who have not. This perspective aligns with the social protection action orientation which stratifies statuses based on levels of social integration. Because both are required to work however, the orientation equates to a universally applied moral duty of participation in the work relation, the defining characteristic of social integration, rather than exemplifying socially-differentiated moral standards between the dependant and working class. Accordingly, because this work duty exists for both, only those who refuse to participate through maintaining dependency become antagonists of social justice. Nevertheless, if both are morally obliged to participate in the wage labour relation, we must turn to a working class perspective on the moral obligations of firms – whom have a key role in realising this norm.

Surprisingly, union representatives were averse to directly defining the moral duty of employers to hire as equivalent to the moral duty of the unemployed to work – despite their equivalent mutual interdependency in actually fulfilling this moral duty. Instead, most argued in a broader instrumental manner. They argued for the importance of good wages for collective prosperity (GR1), or the importance of paying decent wages to protect the sustainability of the social insurance systems (GR4). The latter is exemplified by the following response to the question if employers have duty to pay a wage sufficient for a worker to live without state assistance:

“Yes, that is self-evident. That is why we have established the minimum wage
– although it is still too little – so to say, at least finally, that in the political

community in Germany it cannot go on that employers get labour but only partially pay into the social insurance system” (GR4).

This reasoning is more instrumental and oriented towards protecting the existing social insurance system from Minijobs stretching its finances, alongside the normative political action of setting a minimum standard of pay. A more abstract formulation of this argument is made below, in which the prosperity of the entire community is dependent on good wages:

“The additional payment that someone gets is paid by the state through taxes. Why? Should I now purchase a product which is priced (*mitberechnet*) through low wages, from my wages and then pay again, with my taxes, the subsidy for that low wage by which the product was produced, so that person can live? I pay twice. Then in principle, that what the employer gets back, the employee gets from yourself, from the state. If a product is built from the start on dumping wages (*Dumpinglohn*), then it is not good. If it competes at the same time with a similar product offered – for instance when I am now a restaurant, and put pressure on prices through paying my workers badly, I am immediately in competition with other restaurants that pay the *Tarifvertrag*. And this difference I pay” (GR1).

This basic picture of the economy presents a key insight: additional state payments made through taxes to subsidise low wages effectively pays tax money to employers for a substandard product. Whether this echo of Keynesian thought about wages and consumer prices in a closed economy is functionally or empirically sound is beyond the scope of this thesis. The more important insight is that wage levels and interactions between work and welfare a) are suffused with norms on the distribution of responsibility to ensure a basic standard of living is between employers and the law; yet b) are largely determined by

employers in the Hartz Regime. Therefore, *if both welfare dependants and the working class are morally obliged to work to achieve basic social integration according to the Hartz legal code, then their moral value is judged by employers.*

This intuitive observation is nevertheless absent for most major scholarship in CPE today – particularly the supply-side focus of the SIP. Until it is directly taken into account, the preeminent position in the social structure which determines the success or failure of any labour market policy is wilfully ignored. In order to cease this wilful ignorance, I will turn to employers, or ‘capital’ – defined in this thesis as those who procure subsistence through hiring workers to produce products which are then sold on consumer markets for profits – the profit-dependent class (Przeworski, 1985:138-139).

I.C – Capital

Because the assumption of instrumental rationality supporting maximum accumulation is rather common in the prevailing CPE literature, particularly the VoC tradition, it reflects the rationality of capital more than labour motivated by moral duty and social norms. In this communicative sphere, unemployment as a legally-defined status of dependency with the moral obligation to work is rendered a functional state of affairs for capital, echoing Bengtsson and Ryner’s (2015:419) argument that “a conception of unemployment as inevitable serves as a public good for employers to keep wage rates down.” In other words, it is in the interest of employers to keep unemployment above a certain threshold, suggesting a contradiction between the prevailing social norm of work, and the instrumentally-rational strategy of keeping the realisation of this norm out of reach – a fundamental contradiction of capitalist labour markets. The heart of the contradiction lies in the legal *right* for employers to choose how many jobs to offer, whom to hire and according to whatever criteria that suits them. As we have seen,

for the unemployed in Germany, the capacity to freely choose a given work role diminishes over time, and is formally non-existent once an individual reaches ALGII and is subject to the reasonableness criteria (*Zumutbarkeit*) of SGBII – although both AVs and the unemployed themselves often successfully circumvent this legal imperative.

The following section will demonstrate how capital perceives this relation, elucidating the basic characteristics of reasoning about it. The section will first explore the evolution of economic growth and wage shares for our regions, followed by a sector-based examination of each region's labour market, before establishing the prevalence and even necessity to which employers justify their ultimately instrumental reasons for hiring, paying, and firing workers. Underlying this justification is a logic of functional differentiation in which moral duty to workers and the labour market is replaced by the instrumental rationality of profitability.

I.C.1 – Conditions of Employment and Income for Capital

A key theme of a wide range of supply-side focused literature on the welfare state and labour market reform, both of the Third Way and social investment variety, has been a nostalgic evocation of the higher economic growth rates prior to the 1990s and a reification of flexible labour relations presumably driven by technological change. Two general conclusions emerge from this literature: 1) that higher economic growth through global competitiveness is a factual necessity for making social inclusion through increased wage labour activity achievable; and 2) post-industrialisation and rising female workforce participation begets jobs with the apparently intrinsic necessity of flexibility, with welfare state adaptation either the high-road of educated knowledge-workers attracting capital in knowledge-intensive industries (ie. social investment), or the low road of precarious service workers and high inequality (ie. neoliberalism).

From a more critical perspective focused specifically on Germany, Lapavitsas et. al. (2010) has argued quite the opposite, stating:

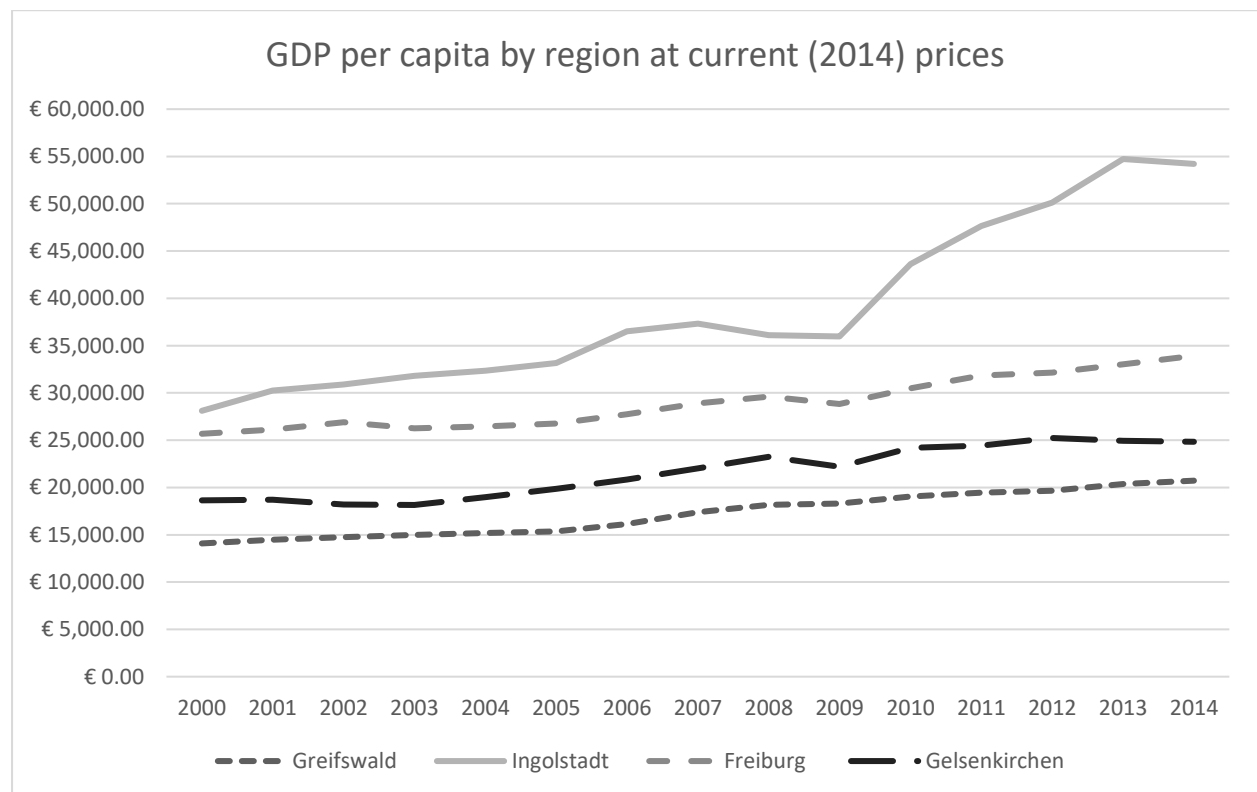
“It cannot be overstressed that gains in German competitiveness have nothing to do with investment, technology, and efficiency. The competitive advantage of German exporters has derived from the high exchange rates at which peripheral countries entered the eurozone and, more significantly, from the harsh squeeze on German workers” (Lapavitsas, et. al., 2010:341).

From this perspective, it is the very supply-side labour market policy characteristic of growth-fixated approaches actually creates exclusion and inequality through dualisation and wage suppression. Regardless of aggregate growth, profitability underpins individual firms’ competitiveness – which can occur both in high and low growth environments – whilst wage inflation, at least recently in Germany, appears to come from working class mobilisation focused on realising the social norms of solidarity and justice (Schulten and Bisquick, 2014). In this interpretation, the distribution of income and ‘good jobs’ is determined by the relative appeal of normative reasoning supporting working class claims for more distribution, rivalled by capitalist class appeals to the instrumental rationality of maintaining global competitiveness. Empirically, the “squeeze on German workers” (*Ibid.*) is indeed a phenomenon resulting in significant declines in the ‘wage share’ – ie. the percentage of total output going to workers.

Inter-regional comparison within a single welfare state model offers a highly effective method not only for assessing whether social investment and ALMP together create more and better jobs (Bonoli, 2012; Nelson and Stephens, 2012), but how economic growth may or may not contribute to this. Although we have already seen that Ingolstadt offers more and better jobs in terms of fewer atypical contracts and lower levels of dependency, it also appears to offer less parity of participation for alternative action orientations (see Graph 7.6) as well as a

greater willingness to apply sanctions in practice (see Graph 7.5). As is perhaps expected, Ingolstadt also has *considerably* higher economic growth than any other region. This is represented in overall GDP per capita as expressed in **Graph 7.10**.

Graph 7.10 – Economic Growth by Region³⁸

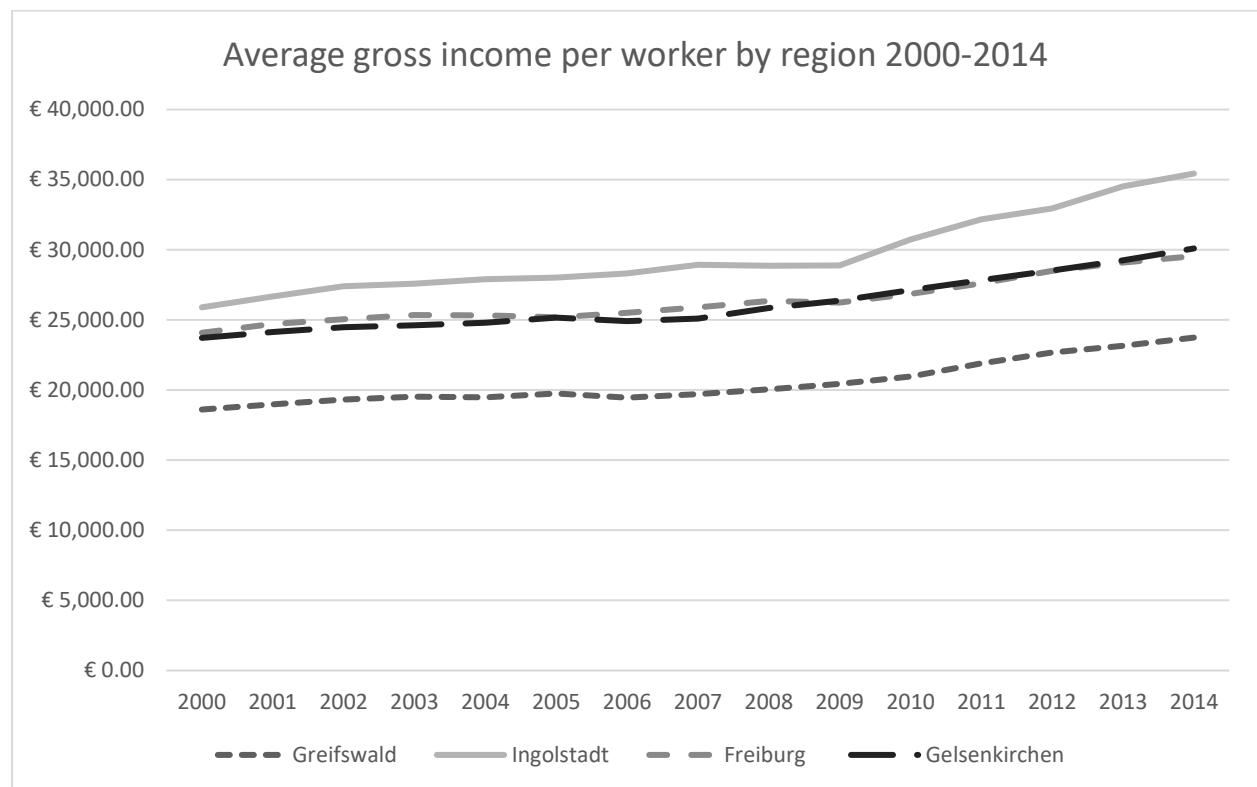


As is strikingly evident, per capita incomes between regions differs significantly, as does its relative trajectory over time. Indeed, under this measure provided not by the BA, but the regional economic accounts office (*Volkswirtschaftliche Gesamtrechnungen der Länder – VGRdL*), income per capita by the time of field research in 2015 was over twice as high in Ingolstadt than Greifswald and Gelsenkirchen. In any case, for reasons almost certainly related

³⁸ See Appendix for Source.

to the headquarters of Audi – frequently mentioned by AVs in the district – the Ingolstadt area has dramatically improved its relative position since 2009.

Graph 7.11 – Gross Income in Wages and Salaries per Employed Person³⁹

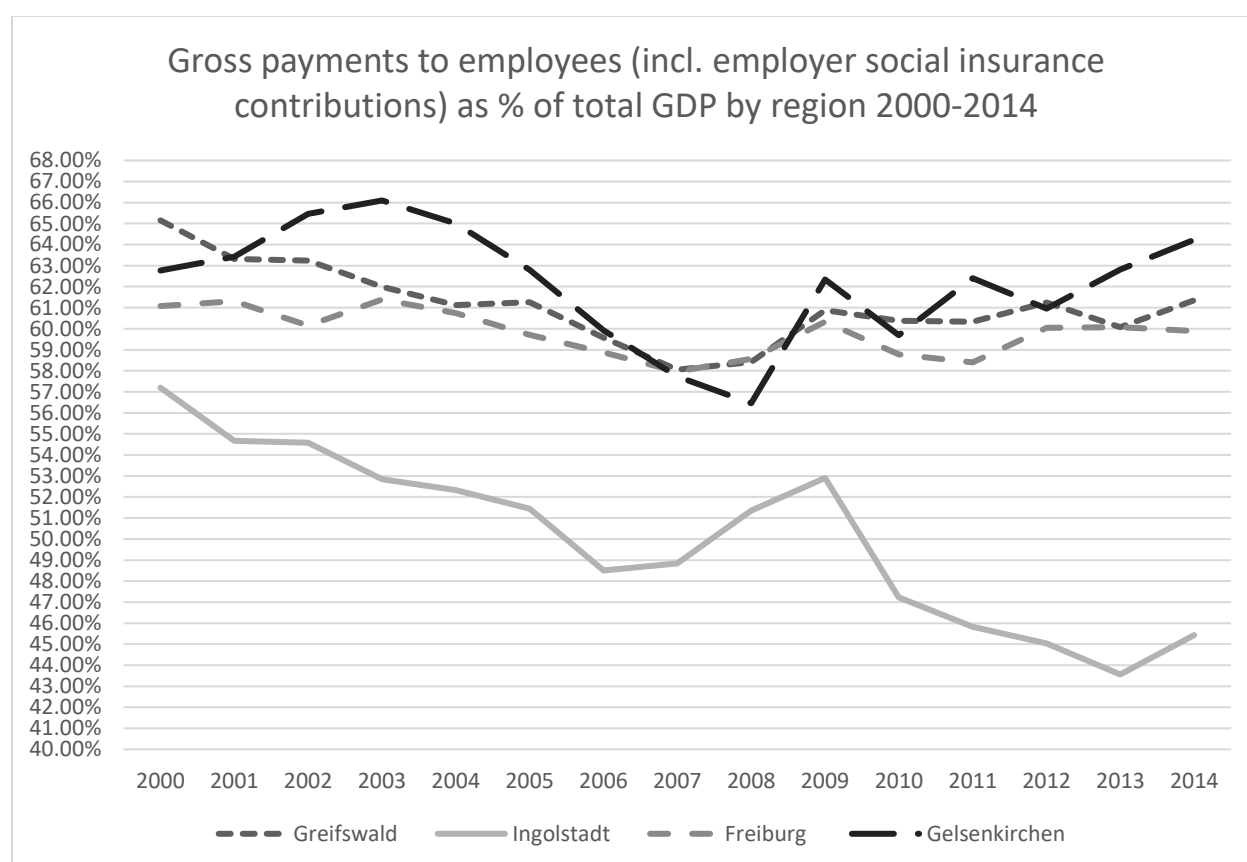


However, it is important to note that Graph 7.10 only calculates the aggregate wealth generated in the district per the *total population*. This rough statistic does not calculate how much wealth creation is utilised to generate employment, pay workers, pay capital in terms of profits, or pay rentiers in terms of debt service. In **Graph 7.11**, the same source offers a calculation of average pay for those classified as employed before taxes and social insurance contributions – a better indicator for how much economic growth is translating into wage

³⁹ See appendix for source.

growth. It is important to note in this graph that this presents the average income of those *in employment*, which ignores those of employable age (15-65) in the dependant class without any work as explored earlier, as well as children and the elderly living in the district – all of which are included in **Graph 7.10**. Comparing these two graphs leads to an interesting conclusion: the per-capita income in each district is *higher* than the average wages of workers – sometimes by considerable margins – notwithstanding that a large percentage of the overall population is dependent on wage workers for subsistence. GDP output is thus higher per person than average wages paid to the 40-65% of the population actually working. Indeed, **Graph 7.12** seems to confirm this.

Graph 7.12 – Estimated Wage Share by Region⁴⁰



⁴⁰ See Appendix for specific sources and calculation.

Rapid economic growth appears to create rapid increases in profit more than rapid increases in wages, particularly for regions hosting highly profitable industrial enterprises. It is important to note that for Graph 7.12, this calculation *includes* substantial employer social insurance contributions as wages – with an average of nearly €8,000 for each worker in Ingolstadt in 2014. The striking difference for Ingolstadt points to the sheer scale of profits relative to actual wages accompanying competitive firms.⁴¹ Whilst capital investment is surely a component of Ingolstadt’s competitiveness, all machinery and information investment nevertheless requires skilled labour to operate. As shown below in **Graph 7.13**, this may have even recently occurred in the case of Audi or its local supply chain, since the manufacturing sector in Ingolstadt is one of only two sectors in all regions which has a relative oversupply of jobs versus applicants. Yet, this low unemployment and shortage of skilled labour has not yielded an increase in wage share for the Ingolstadt region equivalent to profit increases. Although there is slightly higher wage growth in Ingolstadt, wage inflation is much lower vis-à-vis value creation (ie. productivity per labour hour) than any other region. Consequently, value creation in Ingolstadt is being extracted from the region in the form of internal company savings, shareholder dividends, investments in other regions or countries, taxes going to subsidise other regions, rents paid to financial institutions, etc.

This observation of local surplus value extraction points to a geographic dimension of social justice. Curiously similar to the relatively higher parity of participation among action orientations in poorer regions with high unemployment exhibited in Graph 7.6, we observe an emerging inter-regional dilemma in terms of surplus value extraction. Namely, some regions produce enormous surpluses from wage labour, which is subsequently taxed or extracted

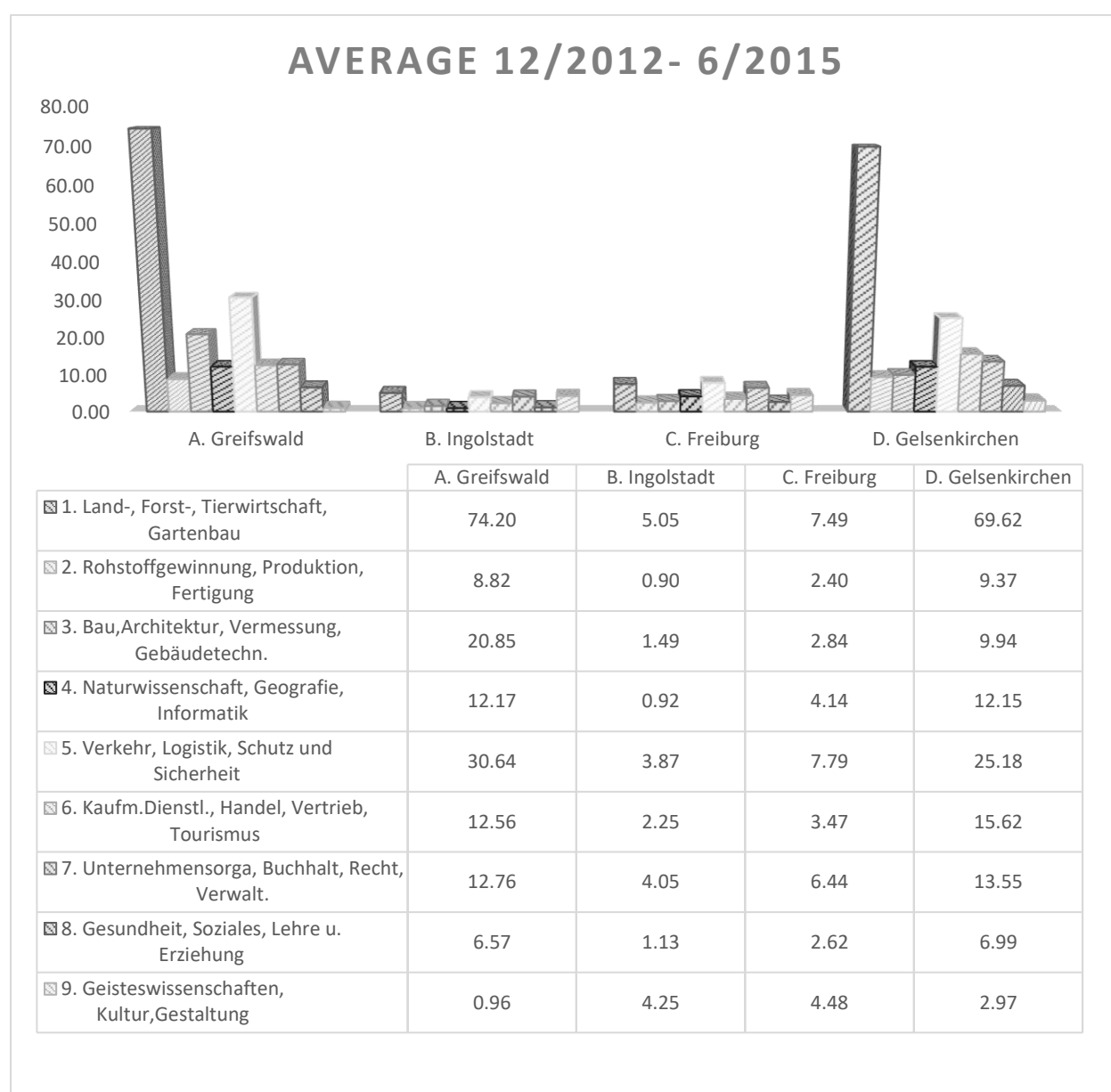
⁴¹ It is important to note that how profits are accounted for within this large company (Audi) could distort the statistical representation of GDP per capita for Ingolstadt. Nevertheless, the definition of GDP per capita offered by the source (see Appendix) suggests that the factory in Ingolstadt produces considerable value relative to labour inputs, rather than gross value creation for the entire Audi enterprise being accounted for as sited in Ingolstadt. In other words, this calculation *appears* to *not* account for *global profits* of Audi as headquartered in Ingolstadt, but only the value creation of the factory there. If otherwise, I am of course open to correction.

privately, whilst others have a large percentage of the population dependent on the redistribution of those surpluses through the welfare state. The former nevertheless face greater moral pressure to integrate into the labour market than the latter. Therefore, a dynamic emerges in which average workers in Ingolstadt may be justified in demanding some of their surplus is not redistributed to Gelsenkirchen or Greifswald due to weaker moral expectations to work in the recipient regions. The latter become beneficiaries of a double moral standard within the dependant and working classes. If surplus is generated through wage suppression combined with intensified pressure to work, which indeed appears to be the case for regions like Ingolstadt, then this combination effectively subsidises redistribution to areas with potentially alternative moral standards – an injustice from system to lifeworld manifested *geographically*. Although heavily based on the siting of large enterprises, the importance of having those enterprises is not lost on the local community, with many AVs in Ingolstadt and Gelsenkirchen discussing the benefit of Audi and the loss of various heavy industries, respectively.

However, we can also make the precise opposite argument, namely, that inter-regional inequality contributes to unrealisable moral expectations in low-growth regions with high unemployment. This is illustrated in **Graph 7.13** and the accompanying table. It presents a sector-by-sector breakdown for the average number of registered unemployed competing for each job offer, for each region, for an approximately 30-month period. If each cell contained a value of ‘1’, in which the number of job offers perfectly matched the number of unemployed, then we achieve equivalency of choice between both sides of the labour market would – an empirically implausible assumption in equilibrium-focused labour market modelling (Rogerson et. al., 2005). Instead, for each job offer applied for by anyone on ALGI or ALGII in the primary sector in Greifswald (cell 1A), for instance, approximately 74 unemployed individuals are potential competitors. Only in the case of Ingolstadt’s manufacturing sector (cell 2B) and Natural and Information Science sector (4B), as well as Greifswald’s Arts,

Humanities, Culture, and Design (9A) sector, are there more job opportunities than unemployed individuals certified in these sectors. Otherwise, a considerable number of direct competitors exist for each job – particularly in Greifswald and Gelsenkirchen, as well as in the primary sector (row 1) and transportation and security sector (row 3) for all regions.

Graph 7.13 –Registered Unemployed Available for Each Job Offer by Sector⁴²



⁴² See Appendix for source and calculation.

Therefore, the unemployed in poorer regions face much stiffer competition for any given open position than those in wealthier regions. Consequently, the geographic dimension of injustice, in which the unemployed in places like Ingolstadt face greater probability of sanctioning and more negative moral reasoning to work when sitting at the Jobcenter, is offset by the higher availability of jobs relative to competition between the unemployed. Considered from a broader perspective, at least within a given sovereign legal order, inter-regional inequality still contributes to social injustice in contradictory ways. Namely, the perceived injustice of Ingolstadt subsidising the morally-lax Greifswald and Gelsenkirchen confronts the injustice of the latter regions expecting to face the same moral pressure to work despite much poorer market conditions. Writ large, the same conclusions could be made for Germany vis-à-vis Greece, or Europe vis-à-vis China. Because the sovereign legal order ultimately establishes the intersection between normative reasoning about moral expectations and instrumental reasoning about efficiency and productivity within a defined territory, transnational capital mobility increasingly intervenes in an analysis of social justice for labour market institutions. Where profits are extracted and where they are subsequently invested creates the very conditions in which working-class citizens can realise their moral duty to work. This will be touched upon further in the section on rentiers below.

At this point, we have seen how economic growth appears to lead to declining wage shares in wealthier regions, whilst inter-regional inequality leads to a dilemma between weaker moral reasoning on the duty to work at the Jobcenter in poorer regions, yet this is offset by a relative dearth of actually realisable work roles offered by the system. Abstracting from each observation highlights the socio-structural origins of both the distribution of inter-regional wage shares, as well as inter-sectoral distribution of employment. Namely, capital decides both the site of investment and the selection of workers to function in work roles following that

investment, thus determining both the reasoning behind investment siting, as well as the criteria by which unemployed individuals are hired. As previously established however, relative income is an outcome not only of decisions by capital in the face of competitive labour markets, but also mobilisation by working class organisations exercising normative reasoning in the public sphere to demand higher wages. In short, power resources matter (Korpi and Palme, 2003). The distribution of *structural power relating to the unemployment rate, and normative power relating to the unionisation rate*, thus precedes any potential injustice emerging from geographic inequality of income, with the latter a better *outcome* indicator for decisions made by agents operating in functionally-differentiated roles, rather than a focal point of institutional analysis. In order to examine what form of reasoning accompanies these decisions - particularly hiring, paying, and firing of workers – I will now turn to interviews made with capital.

I.C.2 – Reasoning with Capital: Differentiating between Hiring, Paying, and Profiting

Thus far we have encountered primarily normative reasoning when communicating about the wage-labour relationship. For both the unemployed at the Jobcenter and those representing the working class, participating in the wage-labour relation is a moral duty which fulfils the social norms of getting up early, associating with fellows, and accomplishing tasks, with actual earned income secondary. Capital, on the other hand, finds itself in a functionally differentiated role in the system. Because employers are tasked with producing goods and services for sale, instrumental reasoning in approaching the wage-labour relation is not normatively constrained. As defined in this thesis, this observation substantiates the claim that functional differentiation ultimately leads to social differentiation in which universal normative constraints are asymmetrically applied, leading to social injustice. However, it should be noted

that the functional logic often utilised by employers is itself instrumentally rational in the context of their role in the system, and seemingly required to maintain this position.

Emerging from a discussion of the unemployed represented by the vignettes, support for activation policies remains grounded in normative reasoning about the duty to work also for capital – with some recognition of employers’ duties in this respect – yet, differentiated standards are immediately present. After clarifying how employers can keep wages hovering around the level of ALGII to lessen their costs, one (AG1) argued this behaviour was:

“morally reprehensible (*verwerflich*) on the side of the employer, and that I find very bad, I can fully understand [Frau M] myself... If one is so depressed, and if one is exploited when they go to work, it is for them totally clear that they would not like to go on. Morally this is just difficult. Because it is also on the side of the employer, that exploits [ALGII] and then on the side of the employee, or the ALG-recipient, exactly the same situation. They eventually take a second job to receive pay, and at the same time still pocket ALGII. There is this also. Some in Germany say they work without taxes, black [market]. And that is actually morally much worse because it aggrieves (*bedrückt*) the entire society” (AG1).

In other words, although poor pay near the level of ALGII leads to exploitation, at least the social insurance system is receiving money, which is better than black market work combined with welfare. The logic behind this underlines the view that welfare and unemployment insurance are state functions designed to protect the vulnerable in society and separate from the decisions employers make, so long as the employers themselves do not avoid their tax and insurance responsibilities. Curiously however, black market work is entirely the employee’s responsibility, as if there was no partner to this crime subject to an equivalent moral standard.

In a more abstract formulation, the following discussion touches upon the moral duty of work yet highlights the impending issue of functional differentiation:

AG2: “There are many people that need this social net quite, quite urgently, and those who say ‘I still will not get a job (*arbeiten gehen*), yet I am not ill.’... But, the social [safety] net is no individual, personal consideration (*Betrachtung*), instead a societal. How can society, how can we the general public (*Bevölkerung*), we citizens, create a possibility that people that have no chance can anyway live a humane life (*menschenwürdig Leben*)? And thus I find it unacceptable when one says, ‘I will still not get a job, I will not earn from the market anymore.’ But I want to refine that. The individual consideration may not become differentiated (*abgescheidet werden*). It may not be removed [from consideration] (*ausblenden*). Keyword: minimum wage. I can demand from no one to work for 2 euros an hour when another receives 8.50 or 10. But that is an individual consideration. And we have here not yet hired. If the Frau, if the Frau M now says, when I must write the whole day and the employer doesn’t give me 8.50, instead as earlier 4 or 5 euros, then she also must not do it.”

I: Ok, do employers have a duty to pay a wage which enables the employee to live without assistance from the state?

AG2: “A very difficult question. What we come to here is not in the same discussion, I differentiate (*differenzieren*). I must differentiate if I now [speak about] the relationship between employer and employee (*Arbeitgeber und Arbeitnehmer*) or worker and boss (*Mitarbeiter und Chef*). Then we must see that the boss, the employer, must also earn money to pay his workers their wages. But it must quite forcefully be said, if the employer, if the boss, doesn’t

earn the money to pay the minimum wage, then the business also cannot carry on. He may, also I am in favor of stopping, keep the management at the expense of the employees (*Unternehmensführung auf Kosten der Mitarbeitern*), in that he virtually says to the workers that you must deliver your full working time, but you do not get an adequate wage, instead less. With that, my business, my company, stays alive and when that doesn't happen, my company is not profitable (*wirtschaftlich*) and it must close and [you] must survive on something else. But that doesn't come into the question very often" (AG2).

The dialogue above points to three important elements introducing the perspective of capital: 1) there is a differentiation between hiring and paying workers; 2) the profitability of the business and the level of the wages are intertwined, yet the income source is fundamentally different, making the wage relation subordinate to profitability; and 3) the employer ultimately holds the power to decide if the business closes, or can attempt to motivate their employees to stay on at lower wages. Later in the dialogue, the AG explicates the different priorities emerging from differentiating between sources of subsistence:

"But then there is the colleague that demands lower prices for something to eat, because now it is really high, and where do the people go to eat? Frequently where it is at a reduced price. Where it is cheaper. It is a problem and the company is trapped within it. From the company perspective, if the worker can live on the wage is for me subordinate (*nachgangig*). I must see that I pay the price the market pays me. What guarantee I can – if I can guarantee the price, then I am finished as a company" (AG2).

Because realising profits is ultimately dependent on selling the good or service in the marketplace where prices fluctuate, the consumer makes the final decision – evidently

absolving the employer of responsibility to pay sufficient wages due their role as a functional conduit between consumers and workers. Because consumers are presumably price conscious in their purchasing behaviour, at least more so than conscious of the morality of the value chain which brings the consumer product to market, a capitalist enterprise is by definition forced to reason instrumentally about wages and hiring behaviour, subordinating them to the price imperatives in the end market. The logic involves hiring labour inputs, organising workers into a process of production, and paying them as constrained by price pressures in the end market – an input, throughput, output structure much like any other system built on instrumental rationality. This is the basic instrumental reasoning about work and wages among firms.

When discussing hiring labour therefore, an initial observation immediately highlights the dilemma faced by the unemployed when confronted with the moral duty to get a job. When discussing the orientation and appearance of Frau M, this interviewee stated:

“If I am unemployed and in the labour market, I have an employer and there stands still ten others. The employer decides themselves from one of these ten people. He seeks the person that is best qualified, that has the best manners (*Benahmen*), wearing orderly clothing and appearance (*Aussicht*), with the right style, that is not tattered (*kaputt*), that is not worn out (*beschädigt*). Where he says, ‘that fits in my company.’ This one receives a position and the rest go home with nothing (*alle nun gehen leer aus*)... It is here a challenge (*Wettbewerb*), a state of competition (*Konkurrenzstaat*) who is the best educated, who can sell themselves the best, who does the best self-marketing which includes clothing, which includes confident demeanour (*sicheres Auftreten*), which includes eye contact and so on and so forth” (AG2).

Although in theory the unemployed person can also establish very specific criteria of acceptable personalities, appearance, and enthusiasm to hire between ten potential employers, we have already seen how rarely this is the case (Graph 7.13). First, without subsistence generating assets eliminating the overarching potential of structural coercion faced by the unemployed to procure basic subsistence, even if assuaged by ALGI and ALGII, the competition between the unemployed, alongside the self-marketing imperative on obtaining employment, requires adhering to the normative preferences and functional requirements of the employer. The unemployed must invest in education credentials, clothing, and obsequious behavioural discipline to impress the employer in a manner which is largely unreciprocated. Those in the dependant and working classes thus look up to employers and see a moral duty to impress them for the sake of getting a job, whilst employers look downwards and see an instrument which can be integrated into their company-specific system for the realisation of profit. This is a contradiction between forms of reasoning about the same inter-dependent relationship emerging from functionally-differentiated roles in the production system.

When examining specific measures utilised by the Jobcenter to activate clients however, 2 out of 3 encouraged Frau M to found her own business with another focused on the importance of education. This unusual outcome highlights the theme of individual choice most prevalent in interviews with capital. Insistence on individual choice maintains the illusion of equivalent moral standards and seemingly furnishes a socio-normative justification for instrumental reasoning in the labour market. In a free labour market, each individual exercises instrumental reasoning to choose a work position most aligning with their individual ends, thus placing individual freedom as the primary end of the system. Indeed, I found a general willingness to see Frau M realise her goals, and Frau S to stay in some kind of low-stress auxiliary role until retirement age was achieved, if she was averse to early retirement.

When it comes to actually realising the goal of social integration through work however, one AG was rather candid with re-skilling more aged unemployed like Frau S, stating “I see it as a big problem that people whom are 60 or older are still compelled (*gezwungen*) to do a typing course (*Schreibmaschinekurs*). Or compelled to do any kind of (*irgendein*) further education when one eventually works again only two years. That doesn’t work. It doesn’t work (*Das geht nicht*)” (AG1). When specifically referencing Frau S, this AG advocated for early retirement, arguing “I find measures for further education too expensive when one knows that she can go into pension” (AG1) citing the return on the investment of the state for social investment in the aging unemployed. This response tends to again undermine Hemerijck’s (2013:386) notion that retraining is sufficient to keep them from early retirement and straining the pension system.

Indeed, hiring anyone at all is usually the last resort for employers due to their expense as a means towards the end of profitability. According to the iron logic of price competition in consumer markets, labour and fixed capital as inputs are allocated according to whatever can create the most end product for the lowest price. An AG explains:

“Sometimes it is naturally so that when one economically earns little oneself, but the best in the area of the workforce come from Romania or Poland or wherever, they work in Germany therefore because the spending power (*Kaufkräfte*) in their country is higher [*side discussion on the meaning of the word Kaufkräfte*] ... and the problem is, for this firm that can [thus] offer their product cheaper, when the cheaper offer comes, it never rises again. [*Gives an example of milk prices*]... one can also make it cleaner and that can counterbalance, but in this we of course still have the problem: to survive in competition (*Wettbewerb*), one tries to push down costs. And where can one push down the costs most easily? That happens most simply with the workers.

If I have 10 workers, and get along with 2 fewer, I have saved 20%. They extend this possibility the most. That is the problem. I have an economic compulsion (*wirtschaftliche Zwinge*), I must just look that my price is accommodated. The entire system is based on something to exploit and sell as cheap as possible, but eventually the point comes where I must even reduce the workforce. And I always say that in my opinion, it is always cheaper to buy a large machine (*große Maschine*) than to hire another worker. It is unfortunately so. And that is actually wrong. It must actually be otherwise, it must be interesting to hire someone, to do what is socially good, and not consequently watch me preferably give 50K more for a machine that I allocate for three years, and in that [someone employable] sits in the shadows virtually every year. It would be better if it would be otherwise, or perhaps would also be better if support would be given, but then we again have the problem that it is much too expensive” (AG1).

The above passage contains the basic problem at the heart of contemporary labour markets: there are either cheaper foreign workers or labour-saving machinery. The employer recognises that buying machinery or hiring a foreign worker leaves someone else from the local community unemployed, yet, in order to survive price competition, the decision is made nonetheless. Because the end of all capitalist enterprises is the accumulation of profit, decisions made regarding hiring and paying workers is entirely instrumental *even if the employer recognises the moral asymmetry at the heart of this relationship*.

Another insight from the above passage suggests the overarching approach of the SIP is problematic. If the easiest way to reduce costs and maintain profitability is to reduce the workforce or suppress wages, then social investment in more productive yet expensive workers will not overcome this dilemma, it will only intensify the rationality expressed above. Of course, the main thrust of social investment argues that sufficient education makes workers

irreplaceable to their firms due to their productivity, but it is instrumentally rational for employers to work directly against this trend either through skilled foreign labour or further mechanisation. Moreover, due to the depreciation of skills over a multi-decade period, it is an unrealistic speculation on the future of technological change to assume that every child receiving social investment will avoid becoming like Frau S.

Overall, interviews with capital pointed to a binary distribution of responsibility between employers and the state tasked with providing a humane living for all. This binary was further explored when questioning who had the responsibility to ensure children had equal opportunities when the wage of the parents did not suffice:

“As an employer, I often do not know how the family relations are, and I do care for my workers here, if they have money problems and so on. Then they can receive an advance (*Vorsprungs*) from me or something. I work together with them, because if they have a problem, then come speak with me, I also get to know the family. But only if we have a lot of trust (*sehr gutes Vertrauen*) and are a small firm. But if I now would have 100 people, then I cannot get to know the families of 100 people... The state can filter that out, through social insurance, through taxes. It sees, it can read that – what has been paid and how much money [they have]. But it is my right that I may not look into that. That means, with the question if the wages of parents are not sufficient, then of course the employer is obligated, but the employer absolutely cannot just go easy because of economic reasons. As I said at the beginning, if I don’t have the money myself, I can’t give my workers more money. It is difficult. It means we must make the production cheaper again. The only one that can intervene (*eingreifen*) is the state that knows all the data. And it can also tax, it can decide

if I, as a firm, must pay more taxes, if I get a subsidy so I can pay more wages, or whatever” (AG1).

However, the previous section suggests that the mechanistic picture provided above is not entirely true and the relative distribution of income between profits, wages, and tax-financed redistribution is more contestable through normative reasoning than the above logic allows for. From the perspective of capital, because workers are an instrumental input in the production process, wage levels derive from price competition in the end consumer market. However, for the GR quoted in the previous section, price levels are derivative of wage levels in the aggregate economy thus suggesting any wage increase will lead to price increases in the end-market. The debate thus mirrors a rather classic debate between supply side approaches to labour allocation like the SIP, and Keynesian approaches. It points to a contestable grey area between profitability and wage inflation under conditions in which “the realization of the interests of capitalists is a necessary but not a sufficient condition for the realization of the interests of any other group” (Przeworski, 1985:145). Therefore, when faced with working class mobilisation focused on social justice or the functional value of high wages in the aggregate economy, interviewees from capital cite two other elements which determine wage levels: 1) perceptions of future risk, and 2) debt. The following dialogue illustrates:

“AG: The unions think, in my view, very much for all workers, very good, but often do not know the other side. What I said earlier, if I have no money, I cannot pay more wages. Somewhere there is this coalition that the unions don’t know.

I: Why do you think that?

AG: Because I often experience in this respect that because I have a firm, means I have a lot of money. You have many workers, it means you have a lot of

money. But I also have a lot of debt. The people do not see the debt. They see *[lists material possessions and fixed capital]* ... it's going well for me, and I have achieved many things that others have not yet achieved. It is the complaint (*Leid*) or often the discussion. And in the unions there are often people, not all, a part of the unions, [who] support a decent association (*ordentliche Umgang*) with the people. But there are also [those] in the unions which fundamentally always make demands. Receiving more money, less work and so and so, but at the same time a higher standard of living. One cannot completely bleed a firm to death (*komplett ausbluten*). In that case, an entrepreneur would never want to make a business.

I: There must be a part that is profit?

AG: He must have something left over (*übrig bleiben*). But how can they know, the employees? They do not know how much profit I need. Do you understand what I mean? If tomorrow a machine breaks down, I need yet again more money. I must always hold the foundations – and that the workers do not see *[digression about surplus in Health insurance industry as an example]* ... And therefore, the unions struggle for basic care (*Grundversorgung*), for a minimum wage, for decent working conditions, but they cannot make the final decision on the firm's business. *Then no entrepreneur would want to work anymore [my emphasis]*. And Frau E can herself decide, because she decides where she works. But she cannot decide for the state how much money she should receive, what is right and wrong. That must be decided by the democracy, through coalitions, through parties, through discussion, through fair procedure" (AG1).

Although the logic above suggests that capital bears all the risk for future downturns, or when machines break down, we must remember that labour effectively bears these risks as well through potential layoffs and employer insolvency. More importantly, the choice to participate by founding a business is different than the choice Frau E faces between work roles because owning assets is fundamentally different than owning only labour. These assets form a source of subsistence independent of labour market which has no equivalent for labour, as Offe (1985:19) highlights:

“Every unit of capital, whether over the short or long term, passes through a phase of ‘liquidity’ – a phase of liquefaction into money. At the end of a phase of the capital cycle, the owners of capital are free to decide whether or not they wish to purchase other means of production suitable for combining with labour power (with less or other qualifications) for the next phase in that cycle. Herein lies a qualitative opportunity that has virtually no equivalent on the side of labour power (where one would have to think of unlimited possibilities of retraining as an equivalent). In fact, and quite unlike capital, the concrete labour capacity that suppliers of labour have to offer does not pass through a phase of ‘liquidity’, in which it could rid itself of all qualitative determination and, so to speak, start a new life; strictly speaking, capital does not ‘age’, but rather moves in a circular pattern of constant renewal.”

In other words, ownership over the means of production, whether in incipient industrial economies or globalised information economies, allows owners the opportunity to liquefy those assets into subsistence-generating monetary value. This right is built into basic elements of capitalist legal codes and no ‘new economy’ championed by Third Way advocates alters the legal fiction of universal immortality and exchangeability offered to the owners of liquid assets. This difference leads to three conclusions.

1) First, the choice of whether or not to hire or pay higher wages is offset against the perception of future risks, themselves related to future price fluctuations in the end market or depreciation of labour-saving, fixed-capital investments. This effectively reverses the dilemma between Frau M and S. If capital feels obligated to participate in the labour market as a moral duty, thus establishing the duty to hire as equivalent to the duty to work, then the capacity to maintain well paid positions into retirement creates a greater risk of insolvency pending price declines in the end market, leading to the situation of Frau S. On the other hand, if capital is obligated to pay well and maintain good relations with the existing workforce – generally instituted in Germany through work councils – then firms are can face increased threats of insolvency through offering full-time contracts to newer staff, thus over-inflating labour inputs and decreasing profits. The alternative is to only offer atypical work ultimately leading to a situation in which the normatively accepted universal minimum standard of living is unloaded onto the state through the unemployment and welfare regimes. When faced with these dilemmas, firms operating in the Hartz Regime clearly prefer to reason instrumentally, aiming first and foremost for the survival of a profitable business. Problematically, declining wage shares simultaneous to increasing precarity suggests that both sides of this dilemma between good contracts for the young or loyalty towards aging workers are avoided in favour of reducing risk and increasing overall profitability – a conclusion reached by other studies as well (see Goebel, et. Al, 2015:572-574). Therefore, regardless of the justness of distribution, the simple conclusion can be made that instrumental rationality in favour of individual accumulation is, both in communication and in statistical effect, utilised by capital when participating in the labour market under the Hartz Regime.

Because firm profitability supersedes the social responsibilities towards younger and older workers, those responsibilities are effectively unloaded onto the state. In theory, the state then reinstitutes this social responsibility through taxing profits and redistributing this income

to the dependants and precarious workers. Studies suggest that income and corporate taxes are highly progressive in Germany (Bach et. al. 2015), which can be understood as taxes on wages and profits respectively, thus affirming this responsabilisation in the Hartz Regime. However, two elements work against this redistributive capacity: 1) the fact that nearly half of state intake in Germany is *not* in the form of income and profit taxes, but rather regressive consumption taxes (Bach et. al. 2015) which inflate consumer prices in the end market without wage or profit increases; and 2) social insurance contributions regress sharply at the very top of the income structure because social insurance is tied to wage-levels and not profit-levels.

2) Secondly, when referencing Frau E more directly, particularly whether or not the emancipatory potential of choice in the labour market participation is actually realised, we must again refer to the qualitative difference between labour and capital cited in Offe (1985) above. The choice of whether an entrepreneur wishes to found a business emphasised above is *not* equivalent to choosing where to work, because the primary motivation behind founding a business is accumulation rather than fulfilling the moral duty of participation. For Frau E sitting at the Jobcenter, participation is directed towards the universally-expected social norm which structures her daily life (unless she is exempted through dependency on a husband), and is moreover enforced through her position as a state dependant with the immanent potential of structural coercion. In other words, not only is Frau E prevented from deciding where she works because she is already attempting to do so as described in the vignette, yet fails to garner sufficient wages to subsist, thus subjecting her to the reasonableness criteria (*Zumutbarkeit*), but also because her very need to subsist prevents the choice of non-participation which exists for the entrepreneur. The entrepreneur owns assets, as well as labour in their person, but the effective immortality and exchangeability of liquid assets offers another source of subsistence independent of work – thus pointing to the importance of wealth inequality in effectively supporting double moral standards towards work.

Because wealth offers subsistence independent of labour market participation, the source of those liquid assets comes into play when reasoning normatively about whether capital and especially rentiers are subjected to universal norms in the German lifeworld. Explored in the next section, inheriting assets is akin to subsisting off unearned income provided by the legal system protecting such a source, whilst debt-fuelled entrepreneurial expansion or high wages over the lifecourse, both leading to the eventual ownership of assets, suggests a more normatively acceptable source of subsistence because it was generated through participation in the labour market.

3) This latter normative reasoning on the source of assets leads to the final observation from this section. Although machinery, equipment, and commercial property are productive assets utilised to create products sold on consumer markets for profit, they are not as liquid as financial assets. Rentiers, both financial sector operatives privileged by the monetary system, and wealthy individuals who subsist off the returns on investment, effectively subsist off claims to the future profits of capital or wages of households engaging in debt-financed consumption. Under this definition, the AG quoted above owes a debt to another entity and is thus morally obliged to work for another differentiated category in the production system. Although clearly a separate market from labour, the financial markets from whence this debt originates thus influence labour markets through extracting potential wage and profit increases through collecting rents.

I.D. – The Rentier Class

Because the social system of labour allocation combines normative reasoning on who is obligated to participate among the dependant class, contrasting the actual labour market participants in labour and capital, we must consider the rentier class as a product of the legal system and more *normatively* similar to the dependant class. Although clearly in a functionally

differentiated role, the reason for this is rather simple: if one holds rights to financial assets which preclude the moral obligation to participate in the labour market, then one is a beneficiary of a legal and monetary system organised according to a normative principle which allows for this distinction. In short, property rights understood as extending to future claims on another's earned income, obtained through debt or shares, is akin to a right to welfare payments which are also claims on another's earned income obtained through taxes. Of course, the *source* of those assets becomes of exceeding *normative* importance under this definition, because assets accumulated through a lifetime of participation in productive activity are different than assets inherited or granted by legal fiat without fulfilling the moral duty to participate in productive activity – a similar distinction made when discussing Frau S's lifetime of participation versus Frau M's antipathy towards unprofitable participation.

The following section will therefore briefly examine 1) the influence debt and capital mobility plays in the German political economy followed by 2) a brief exposition of the distribution of government assets and private assets alongside estate tax policy, before concluding with an illustration of recent scholarship on income and wealth inequality under the Hartz Regime.⁴³ Each section will offer an interpretation of the distinction between rentiers and capital, premised on independence from consumer price competition and instead subsisting off claims on future income, as well as how this distribution affects unemployed dependants and the working class via the labour market, thus presenting an overall picture of the Hartz Regime.

⁴³ Because the German pension system is contribution-based, we can either assume pensioners have a right to be dependents due to the frailty accompanying old age, or a right to being rentiers living off a clearly established lifetime of contribution. I will thus avoid examining the pension system in this context, also to maintain a parsimonious focus on labour market institutions.

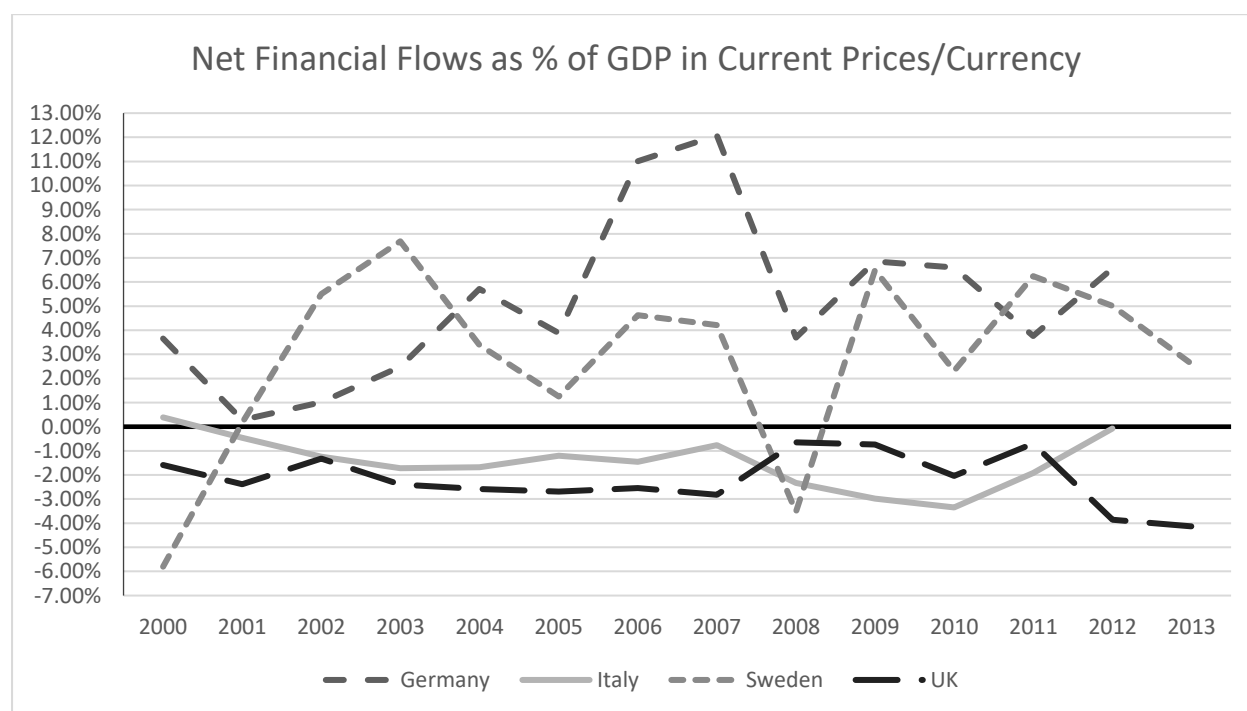
I.D.1 – The Distribution of Debt and Capital

The AG interviewed in the previous section highlighted how debt altered the potential distribution of jobs, wages, taxes, and profits. The relative debt-load of any sector of the economy therefore dampens its capacity to generate jobs, higher wages, more taxes, and higher profits, although its acquisition in the first place implies expansionary investment. The latter observation has ambiguous effects on the labour market however, since buying machines or acquiring further productive property does not necessarily increase the number of available work roles. The complexity of debt and investment decision-making between capital and the rentier class, as well as its indirect effects on labour markets, prevents a detailed examination of the issue here. However, some basic measures of the German political economy vis-à-vis others in this regard suggest that German capital under the Hartz Regime does *not* engage in debt-financed expansion (ie. ‘leverage’) anywhere near most other advanced political economies, leading to more traditional capital export in which liquid assets accumulated in Germany are used to generate investments and claims on the incomes of foreign entities.

In terms of debt acquisition, according to a recent report by the McKinsey Global Institute, (Dobbs, et. al. 2015), the German political economy stands out among other advanced economies in maintaining a relatively low debt-to-GDP ratio, at 188% in 2014 compared with 290% for Sweden, 259% for Italy, and 252% for the UK (Dobbs, et. al. 2015:18). Moreover, for the 2007-2014 period, both German households and German companies have actually reduced debt (ie. deleveraged), precisely at the same time the apparent competitiveness benefits of the Hartz Regime became widely championed. Moreover, only the government increased its relative debt load during this time, holding approximately 42.55% of the aggregate German debt by 2014, compared to 53.67% for the conservative regime in Italy and 14.48% for Sweden – which has a heavily indebted corporate sector – and 36.53% for the UK (Dobbs, et. al. 2015:22).

In other words, German capital is not taking on increased debt to finance expansionist policies in the domestic economy, nor are households taking on debt to supplement suppressed wages (see Graph 7.12 above, as well as Fratscher, 2016:Ch.2). However, another aspect has accompanied this relative decline of rentier-based income in the German political economy: German capital and rentiers have acquired significant assets abroad. As an advanced export-oriented economy with relatively low debt-driven consumption and low wage shares, the accumulation of savings by capital has corresponded to significant increases in investing elsewhere. **Graph 7.14** illustrates the net financial account for Germany as a percentage of total GDP, alongside Italy, Sweden, and the UK. Although Sweden also exports capital as well, its sheer scale in Germany is quite remarkable, reaching 12.07% of total German output in 2007, with an average of 6.8% since 2005.

Graph 7.14 – German Capital Export⁴⁴



⁴⁴ Source: stats.oecd.org [Accessed 11/2/2017].

This liquid capital is transferred abroad to establish financial claims on foreign entities such as the German financial sector's extensive and crisis-ridden investment in American mortgage-backed securities (Lewis, 2011) or in the form of foreign direct investment (FDI) in which a company like Audi builds production sites abroad, like its engine manufacturing centre in Győr, Hungary, established in 1993 ('Győr', 2016). In a similar manner to the net export of accumulated money from the Ingolstadt region, this represents a net export of German liquid capital primarily through the private sector rather than tax-based or intra-German redistribution. However, because these liquid assets are invested abroad, they are placed in sovereign legal orders outside the lifeworld which governs the normative and instrumental conditions under which they were first accumulated.

Because we have previously seen how intensified capital accumulation since 2005 has occurred through dualisation and wage suppression, the origin of these assets are tied to the normative reasoning underpinning the working and dependant class's experience of the Hartz Regime. At the same time German rentiers and capital invested abroad – ironically accelerating after the Hartz Reforms despite the threat of capital flight justifying them (Kindermann, 2005) – the dependant classes received relatively less welfare income and an intensified normative constraint on treating the work relation instrumentally, whilst the working classes experienced declining wage shares until very recently, alongside an increase in precarious working contracts. Because the source of that value creation, and therefore the very source of subsistence among the rentier class, is based on the working classes morally obliged to develop specialised skills, plan their daily structure around work, and compete with each other to obtain a reduced wage from employers, who, in turn, repay debts and wages with profits earned through actual productive activity, we encounter another double moral standard leading to social injustice.

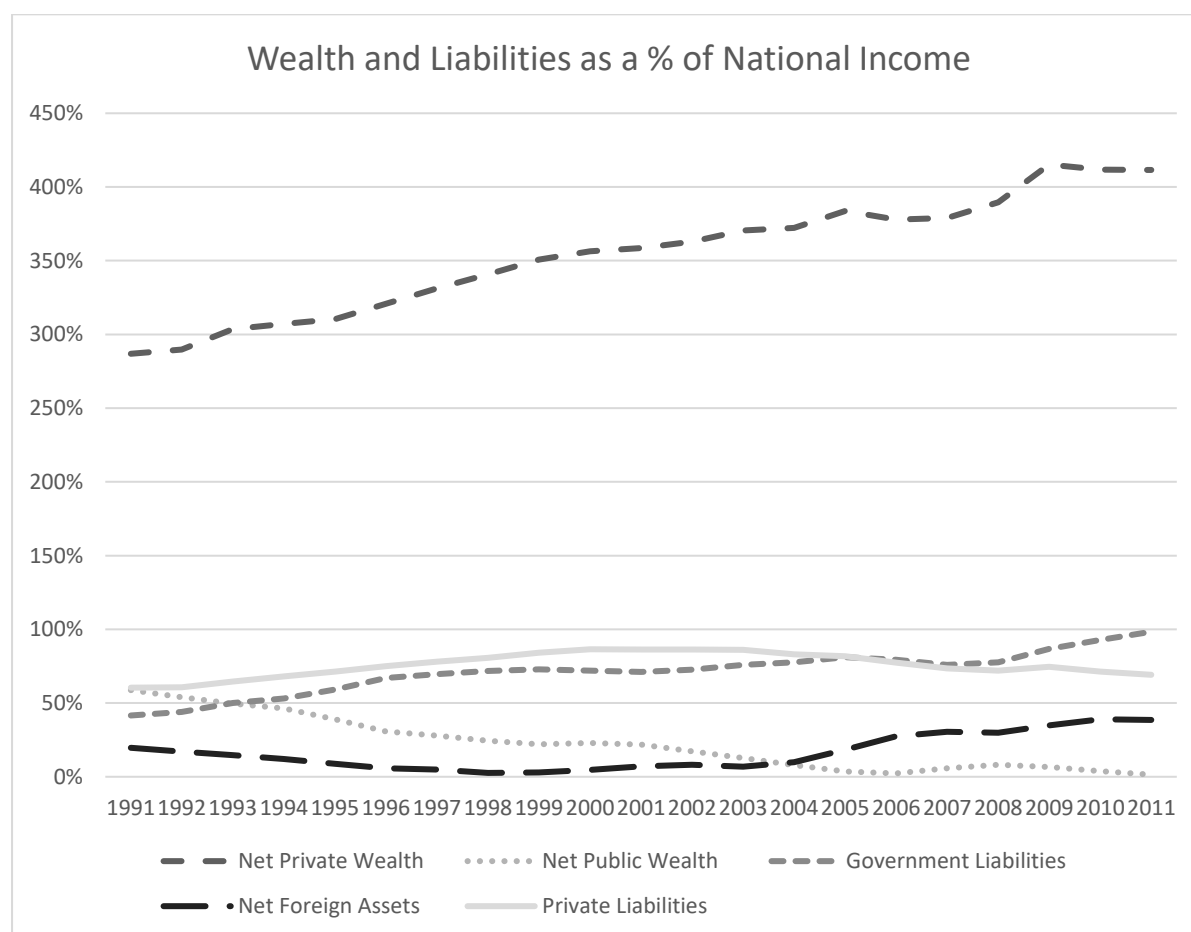
Although international trade is thought to increase aggregate prosperity through reduced consumer prices (see Ricardo, 1973:Ch.7), a just distribution of trade would strive towards equilibrium in the balance of payments. Instead, the German financial and trade accounts suggest that German capital and rentiers are utilising their own workforce as instruments to accumulate financial assets without a reciprocal moral duty to further participate in the very wage-labour or capital-investor relationship which created it. This is then invested abroad not only leading to instability and criticism from international sources (see Rajan, 2010), but also income stagnation at home (Fratzscher, 2016:Ch.2). In short, for rentiers with transnationally liquid assets, positive instrumental rationality governs the incentive to participate in a relationship others are obliged to treat as a moral duty, both in the necessity of work as well as the obligation to repay debt. However, it is distinct from the inter-regional comparison between wage shares explored earlier because decisions about participation among those controlling transnationally-liquid assets operate above *any* sovereign legal order. In short, unconstrained instrumental rationality focused on self-interested accumulation appears to govern *transnational* finance and capital, leading to a question: what moral duties are rentiers tasked with?

I.D.2 – The State and the Rentier

We have already established that the state plays an important role in defining the minimum standard of humane living for all via welfare policy, as well as the distribution of responsibilities to ensure this. These duties include the moral obligations of dependant individuals to participate when possible, the distribution of social insurance contributions between capital and labour, as well as taxes on consumption, wages, and profits. When placing rentiers in this context, we see a distinct retreat of the state from the ownership of wealth, tax

collection, and the collection of inheritance taxes on highly concentrated wealth. This results in a general increase of overall income distribution going to capital vis-à-vis workers and the state, with an ambiguous role played by rentiers. This ambiguity emerges first from the notoriously difficult capacity for wealth and income surveys to capture the net worth of the very wealthiest (Piketty, 2014; Westermeier and Grabka, 2015), and the inability to fully account for which proportion of ownership over small and large firms is actually earned, which is inherited, and which is owned by global rentiers operating in the financial sector and inhabiting a lifeworld unconstrained by German law.

Graph 7.15 – Distribution of Wealth and Liabilities between Private and Public⁴⁵



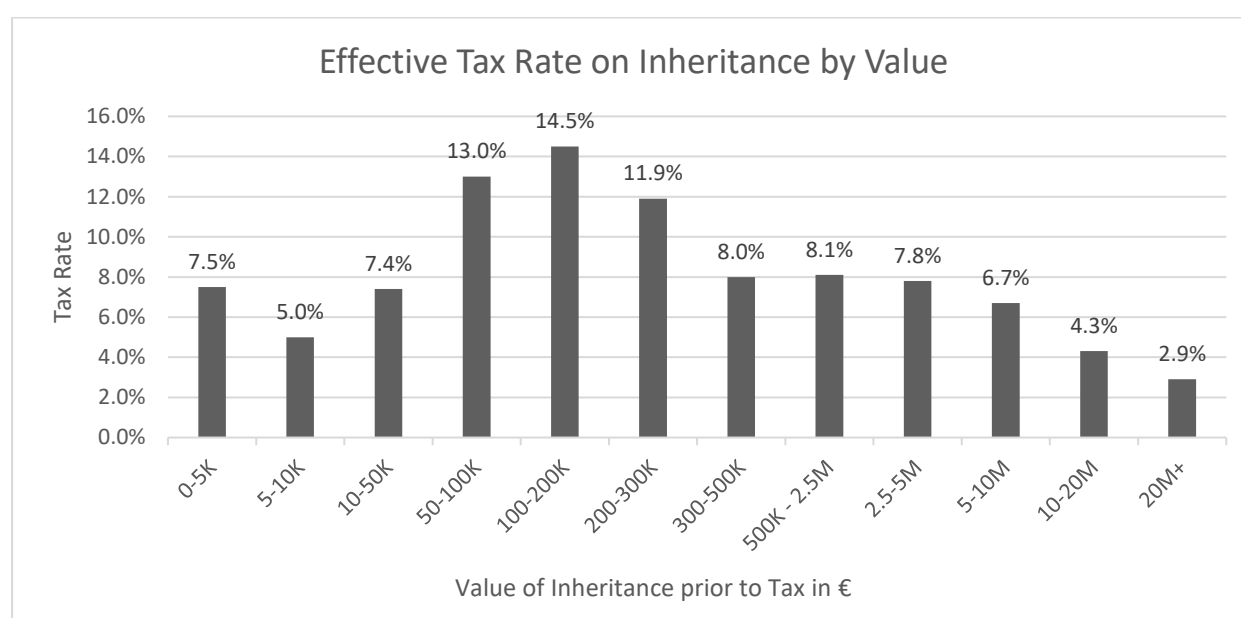
⁴⁵ Source: <http://piketty.pse.ens.fr> [Accessed 15/9/2014]

When drawing from Piketty's (2013) data for **Graph 7.15**, we find a common theme among several countries likewise reflected in Streeck's (2014:Ch. 2) analysis: the state has reduced its relative role in the economy for many decades now, resulting in declining public ownership and tax revenue combined with an increase in debt. In the German case, we see a steady increase in privately held wealth, alongside a significant decrease of net public wealth until it hits nearly zero by 2011. This corresponds directly with tax decreases (Streeck, 2014:63) as well as increases in government liabilities reaching nearly 100% of national income by 2011. Since 2000, we also see an increase of net foreign assets held by Germans to 38% of national income by 2011, alongside a mild decline in net liabilities of firms and households. Overall, the substantial retreat of the state from economic intervention undermines the fiscal capacity of the state, leading to more government debt to overcome the shortfall. Because public debt is ultimately beholden to private rentiers, we must examine if the government is likewise collecting inheritance taxes to offset its liabilities to asset owners whom it protects through the property and monetary regime.

According Marcel Fratzscher (2016), who draws from Bach (2015), the distinction made between company assets and personal assets creates a number of inheritance tax exemptions for the former, leading to a deceptive formal tax rate (Bach, 2015:113). Due to differentiation in inheritance tax law, effectively giving productive and financial assets tax breaks, a bell-curve of effective tax rates that grossly favours the rich at the expense of median wealth owners occurs. The relative distribution of inheritance tax percentage rates is represented in **Graph 7.16** which is a direct adaptation of Bach (2015:117). It clearly shows a preference for wealthier asset owners. State policy thus supports unearned income obtained through inheritance among the wealthiest German families and privately-held companies. Because I have previously defined rentiers who inherit their wealth as equivalent to state

dependents on ALGII, the declining tax rates and overall intervention in the economy to trigger rentier participation suggests that very little moral obligations are attached to the inheritance of this wealth at all, despite the state's essential role in stabilising and protecting its value. This asymmetric application of moral duty has real distributional consequences for German citizens under the Hartz Regime.

Graph 7.16 – Inheritance Tax Rates in Germany in 2013⁴⁶



According to an analysis provided by Dustmann presented in Fratzscher (2016:II.2), the German political economy has seen substantial wage dispersion between income levels since 1990, ultimately fuelling an overall decline in wage share since 2000 – which is also reflected on a regional basis presented in Graph 7.12. Whilst incomes at constant prices increased for capital and rentiers by 30% from 2000 to 2015, wage incomes only grew by 6% (Fratzscher, 2016:54). Wages declined at the lower end of the income distribution, with real

⁴⁶ Source: Adapted directly from (Bach, 2015:117)

wages declining in all sectors of the economy for the 15th percentile of wage earners compared to their levels in 1990 (Fratzscher, 2016:54-57). Only the 50th percentile in the manufacturing sector, as well as the 85th percentile in all sectors have seen actual wage increases since 1990, thus leading to substantial increases in inequality. In other words, the Hartz Regime supports income growth among capital and rentiers at the expense of all but the upper echelons of the working class.

Alongside increased income inequality, Fratzscher has made the rather startling observation that the average net wealth of households is less than half of the European average: approximately €50,000 in Germany versus €110,000 for the remainder of Europe (Fratzscher, 2016:39). Because a great deal of German wealth is tied into family and larger companies rather than home ownership, it leads to another startling conclusion: German wealth inequality has reached levels closer to the USA than any other country in Europe. The German GINI-coefficient for wealth is thus .76 versus .87 for the USA and .68 for the Eurozone (Fratzscher, 2016:44).

To summarise this section, the shifting of liquid assets abroad beyond the equilibrium level suggests that, overall, the rentier class is granted the privilege to treat their investment decisions in an instrumental manner, unrestrained by a state-enforced moral duty to invest conceptually equivalent to the moral duty to work faced by those receiving unearned income at the Jobcenter. Enforcement of the duty to participate among rentiers traditionally comes in the form of capital controls on exporting liquid assets from the legally-sovereign territory, or increasing wealth and inheritance taxes. The latter in turn can be reduced through the demonstration of productive investment in the German economy. This represents an almost direct equivalent to ALGII recipients working Minijobs. Yet, in practice, state dependants are obliged to work at the threat of sanctions and structural coercion, whilst rentiers are *not* obliged to invest – a double moral standard generating social injustice.

Of course, the state itself could intervene in the economy through operating more state-owned enterprises, alongside local development schemes which *directly* create productive enterprises in neglected regions like Greifswald or Gelsenkirchen, instead of simply building infrastructure to lure a transnational rentiers or capital through a positive financial incentive to actually participate in the local economy. But we have seen (Graph 7.15), the state is doing the opposite of this under the Hartz Regime ultimately leading to an overall conclusion that state policy is abetting increased inequality, and ultimately intensifying the normative contradiction between moral expectations among positions in the social structure. In short, the Hartz Regime exacerbates double moral standards between social classes.

II. Summary and Analysis of Social Justice from System to Lifeworld

A key focus of this chapter has been on what kind of reasoning is prevalent when communicating about entering the wage labour relation from different positions in the social structure, alongside accompanying statistical representations of the conditions and consequences of the Hartz Regime for each position. The overall outcome suggests social differentiation has intensified social injustice under the Hartz Regime. This section will therefore offer a thesis statement as to why the evidence presented here justifies calling the Hartz Regime socially unjust, before classifying that empirical evidence to justify the thesis.

II. A – How Social Differentiation becomes Social Injustice from System to Lifeworld

Although Brunkhorst's (2014) study of the legal revolutions accompanying the evolution of European civilisation covers a number of centuries of arcane legal knowledge, when discussing the contemporary era, he argues that:

“With the establishment of an economic constitution in 1957, a Schmittian constitutional *Grundentscheidung* (basic decision) was made. It consisted in the radical ‘negation of a political constitution of Europe’. Instead of subsuming the economic under the political constitution, the political constitution was subsumed under the economic constitution, and therefore, *Wettbewerbsrecht*, competition law, became the ‘axis of the economic order.’ In cases of doubt, the ‘concrete order’ of *law and economics* trumped the formal constitution of *law and democracy*. While the formal constitutional law still adhered to the Kantian priority of democratic legislation, the concrete order of *law and economics* became Europe’s informal prerogative constitution – Europe’s ‘hidden curriculum’.... The most crucial effect was the long-lasting blockade of any transnationalization of the political constitution. The hegemony of the hidden curriculum stimulated and reinforced the Europeanization of big enterprises and employers’ federations, but at the same time strictly limited union activities and employee organizations to the sphere of the national state” (Brunkhorst, 2014:442-443).

In effect, the German emphasis on ordoliberalism, in which the state merely ensures price competition in consumer markets, eventually came to dominate EU competition policy at the expense of the European social model (see van Apeldoorn and Hager, 2010; Buch-Hansen and Wigger, 2010; Ryner, 2015). Laws on the production and distribution of goods and services are governed at the European level whilst social and labour laws are conducted at the member-state level through the Open Method of Coordination – precisely the institutional configuration championed by SIP advocates (Vandenbroucke, 2003). This effectively differentiates legal norms – privileging the ‘economic’ interests of capital and rentiers over the ‘social’ interests of the working and dependant classes. Sovereign legal orders determining the distribution of

responsibilities to ensure humane standards of living are subordinated to market competition in much the same way sufficient wages to live are subordinated to price competition for firms as quoted above. As demonstrated from another quote in section I.C.2, because surviving market competition forces capitalists to treat labour inputs in purely instrumental terms, even if they recognise the moral problems in doing so, the constitution of European law effectively enforces instrumental rationality in labour relations for capital. Consequently, the financial incentive to participate in the labour market dominates the logic of capital.

In contrast, work is normatively valorised as the avenue towards social integration among AVs, most dependants, and those representing workers. It is an activity geared towards realising social norms communicated as universal in the lifeworld. Because work is secondary and instrumental to capital however, combined with the differentiation in European and national law, it evidently has a different path towards integration based on an accumulation orientation discouraged for workers. Thus, social integration as economic success in competition with European peers generates a more exclusive European lifeworld alien to the normative reasoning prevalent among the working class citizenry at the national level, despite instrumentalising those national legal structures and parochial moral duties to actually generate capital accumulation. Indeed, this contradiction is intensified under the Hartz Regime as wage shares have declined whilst capital mobility and wealth inequality has increased.

The reason why this leads to social injustice is because the normative constraint on treating work and welfare instrumentally is non-existent for capital and rentiers whilst it is common for labour and dependants. Because the first principle of social justice here is: ‘normative constraints must be universally applied, regardless of one’s position within a socially differentiated system’, we encounter a glaring example of how this principle is violated. European integration has created a hierarchical differentiation of law addressed to socially-differentiated groups, eventually leading to different moral standards for those who

must obtain subsistence from welfare or wages, and those who, through the right of asset ownership, obtain subsistence through profits and returns on investment. The former are *legally* and *morally* obliged to become an instrument of the latter, who in turn have decreasing moral responsibilities towards them, as well as decreasing responsibilities towards the very sovereign legal order which obliges the former to become their instruments. Like with the union representative quoted above, this is unrestricted freedom for capital at the expense of restricting freedom for labour. Consequently, the violation of the first principle of social justice answers the question, is the German Hartz Regime socially just with a resounding ‘no’.

II.B – Summarising Empirical Evidence for the Analysis of Social Justice from System to Lifeworld

To substantiate the above thesis, through statistical evidence and quotes from interviews presented thus far, we can *infer* the consequences of the Hartz Regime towards relations between social classes, assisted by closely following the rationale of Offe’s (1985) theoretical inferences explored in chapter 4. Elucidated in **Table 7.2** below, each position in the social structure is given the same set of incentives towards labour market participation, with some counterfactual evidence presented as *italicised* justifications.

1) *Dependants* have a clear reduction in financial incentives to participate due to declining wages in lower deciles, increased dualisation, and increased prevalence of Minijobs. However, one element of the Hartz Regime more in line with social investment than blunt neoliberalism (See Hemerijck, 2013:Ch. 5) is the increase in state support via *Maßnahmen*. These provide a positive moral incentive to participate through offering work roles which help structure daily schedules and rehabilitate individuals into working life—generally perceived as positive by those clients who had undertaken them (K3 and K4). However, as we saw in the

previous chapter, negative moral incentives are communicated regularly by AVs functioning under the reasonableness criteria (*Zumutbarkeitsanordnung*) of SGBII, intensifying the potential for coercive sanctioning – thus intensifying the coercive incentive structure for dependants vis-à-vis other classes.

2) *Labour* also has decreased financial incentives for participation due to declining wage shares and overall wage stagnation despite productivity increases (Graph 7.12; Fratzscher, 2016:53). I have interpreted the decline in union density and *Tarifvertrag* coverage as emblematic of declining positive moral incentives to participate in work as well – drawing from Offe’s (1985:Ch.7) understanding of the logic of working class collective action requiring norms of association and solidarity. However, the negative moral incentive to participate has been enhanced due to the shift of collective bargaining towards defensive works councils alongside the fear of precarity keeping individuals in wage-stagnant jobs. Finally, in line with the fear-driven component of working class life under the Hartz Regime, I have interpreted the elimination of *Arbeitslosenhilfe* – ie. long-term unemployment insurance – as reducing the structural capacity for exit (Offe, 1985:27-28) by labour, thus enhancing the structural coercion faced by workers to remain in their jobs.

3) *Capital* on the other hand faces enhanced financial incentives to participate substantiated by the increased profit share, although intensified price competition through the Europeanisation of product markets runs counter to this. Because Europeanisation also expands the labour pool and facilitates investing in foreign legal environments however, the positive moral incentive of solidarity is decreased – with quotes of hiring cheaper foreign workers alongside evidence of capital export justifying this. In addition, it was clearly established that any moral obligations to workers (negative moral incentives) are subordinated to profitability, and the overall decrease in corporate debt in Germany also suggests the moral obligation to

repay debt is less prevalent. As taxation is defined as a negative moral incentive structure in this thesis, their slight reduction also reduces this indirect negative incentive to hire.

Table 7.2 – Results of Hypothesis Matrix for System to Lifeworld

Position in Social Structure	Incentives	Relation to Other Classes	Justifying Observation
Dependant	13. Financial	Reduced	Dualisation, Minijobs, Sharp wage deflation at lower deciles
	14. Moral (positive)	Enhanced	Increased Training, Massnahme, Rehabilitation focus of AVs
	15. Moral (negative)	Enhanced	Increased Moral Pressure by AVs, Undiscriminating Reasonableness Criteria
	16. Coercive	Enhanced	Sanctioning Use
Labour	17. Financial	Reduced	Decreased Wage Share, Wage stagnation
	18. Moral (positive)	Reduced	Reduced Union Coverage, Reduced Union Density
	19. Moral (negative)	Enhanced	Increased Precarity, Defensive Works Councils
	20. Coercive	Enhanced	Replacing Arbeitslosenhilfe with Hartz IV
Capital	21. Financial	Enhanced	Increased Profit Share, <i>Increased Price Competition</i>
	22. Moral (positive)	Reduced	Internationalised Capital and Labour Markets
	23. Moral (negative)	Reduced	Subordinate to Profitability; Reduction in Debt; Slightly Reduced Income Taxes and Shift to Consumption Taxes
	24. Coercive	Non-existent	
Rentier	25. Financial	Enhanced	Increased Capital Mobility, Accelerating Inequality
	26. Moral (positive)	Reduced	Capital Export, <i>Reduced Debt</i>
	27. Moral (negative)	Reduced	No legal Requirement to Invest; Minimal Inheritance Taxes Privileging Concentrated Wealth
	28. Coercive	Non-existent	

4) *Rentiers* also face enhanced financial incentives to participate in the Hartz Regime because transnational capital mobility implies that the instrumental rationality of self-interested accumulation is not tempered by obligations of solidarity to the communities in which the wealth was originally generated – thus leaving financial benefit as the sole criteria. The acceleration of wealth inequality and capital export attests to the consequences of this, particularly because the former enhances the power of wealth holders whose investment the remainder of the political economy is dependent on, whilst the latter substantiates the implied reduction in positive moral incentives focused on solidarity. Without any apparent legal requirement to invest anywhere and minimal inheritance taxes, particularly for those in the upper echelons of wealth ownership, no recognisable negative moral incentive to participate exists either. Indeed, emerging evidence suggests that rentiers avoid taxes altogether through offshore ‘wealth management’ (Harrington, 2015) – effectively granting rentiers global impunity.

In summation, we see a sharp difference between the tolerance towards positive instrumental reasoning, and expression of negative moral reasoning, to participate in labour markets between social classes. The root of this difference is whether or not an individual stands on the supply or demand side of the labour market. Those supplying labour power find their financial incentive to do so decreasing under the Hartz Regime. Considering declines in trade union solidarity, more defensive works councils, and moral duties to work enshrined in law for the unemployed, this intensified moral pressure was evidently required to keep people working despite the decreasing financial incentive to do so. At the same time, the acceleration of wealth inequality and profit shares allows the demand side of labour markets to utilise purely instrumental reasoning focused on accumulation as the sole criteria of participation – a criteria discouraged and generally uncommon among the working and dependant classes.

III. Conclusion

This chapter has first shown how the basic standard of housing required for any kind of participation is provided to those who are dependants in the social structure, before exploring the regional economic conditions they face when morally obliged to understand social integration as finding a job or a partner with job. Nevertheless, dependants for the most part adhere to the social norm of work and find it difficult to realise under conditions in which far more applicants exist than job offers. Because those already working find their financial situation and working conditions improved by collective action, the decline in union density and *Tarifvertrag* coverage indicates a decrease of bargaining power for the working class in the Hartz Regime, an observation substantiated by stagnant wages and declining wage shares. Nevertheless, the primarily normative rationale for working continues to dominate discourse among those representing the working class. In contrast, capital has found its profit shares increasing and enhanced positive instrumental rationality determining participation in the labour market under the Hartz Regime. Due to Europeanisation and minimal inheritance taxes, the rentier class also finds its financial incentive to participate increased, with little normative reasoning appearing to govern investment decisions. Ultimately, this represents a social injustice because the social norm of labour market participation is expected to supersede any financial incentive to participate among the working class, with this norm effectively a moral duty for those dependent on the state for subsistence, whilst only positive instrumental reason governs decisions among those owning liquid assets.

Overall, the emerging picture of the Hartz Regime is one of intensified class difference in German society, which this thesis describes through the epistemic framework of system and lifeworld. We see a pronounced internationalisation of the production system in which

transnationally mobile owners of liquid assets increasingly make investment decisions based on the instrumental rationality of capitalist competition, with a decreasing moral duty to participate based on norms of solidarity and shared universal expectations emerging from communicative action in the lifeworld. At the same time, social welfare and institutions of working class collective action remain mired at the nation-state level, with social subjects oriented towards these institutions facing declining financial incentives to participate, in which the state responds by intensifying the moral aspect of work. Under the class society of the Hartz Regime, precarious and working class individuals are expected to exhibit an obsequious moral duty to please employers who are increasingly allowed to treat them as expendable instruments in their self-interested quest to generate wealth. Abetted by state policy under the Hartz Regime, this picture has ominous historical precedents both in its potential political backlash (Polanyi, 1944), as well as its potential for the petty despotism and indolence of a static class society (Veblen, 1899; Piketty, 2014). Going forward, the precedence of the work norm regardless of action orientation uncovered in the previous chapter, alongside the key importance of social class determining the rationality exercised in justifying participation in the labour market, as well as the inductive observation of regional inequality affecting social justice, will shape the theory reconstruction in the following, final chapter.

Chapter 8: Theory Reconstruction for the Comparative Analysis of Social Justice

“Capitalist societies are distinguished from all others not by the problem of their reproduction, that is, the reconciliation of social and system integration, but by the fact that they attempt to deal with the basic problem of all societies in a way that simultaneously entertains two solutions that logically preclude one another: the differentiation or privatization of production and its politicization or ‘socialization’ (in the Marxian sense).” – Claus Offe, Contradictions of the Welfare State, 1984⁴⁷

The ‘Marxian sense’ of socialisation of production is rather basic: organising individuals into specialised groups who then fulfil instrumental roles in a functionally differentiated system. Because individuals work together to accomplish collective ends, the production process is ‘socialised’. The basic norms motivating individual participation in this process for the Hartz Regime, such as getting up early, going to work and associating with colleagues, and, when dependent on the state, dutifully following the strictures of a re-integration agreement until those norms are again realised, emerge from normative reasoning in the lifeworld. These norms thus engender the content of social integration, decided through public sphere debate and subsequently implemented in law. Because these social norms are legally-binding, for them to be socially just, they must be universally applicable if we understand modern law as *equally* applicable to all, regardless of a legal subject’s role in the system of production.

Problematically however, as we have seen, these norms are actually not universal in the Hartz Regime, with the moral duty to work as integral to social integration relegated to a socially differentiated class owning few liquid assets or property rights over the means of production. Those who own assets have a different set of social norms, in which the primary goal is not social integration, but profitability and accumulation – the very goals normatively constrained by state policy and everyday discourse surrounding dependant and working class

⁴⁷ (Offe, 1984: 83)

life as demonstrated in chapters 6 and 7. Therefore, social differentiation between these groups emerges from functional differentiation in the system of labour allocation: instrumental rationality determines who is hired, whilst those hired are normatively obliged to enter this relation. A contradiction thus arises when universally binding expectations of behaviour are actually not universal, but relegated to a specific class, whilst another is granted impunity. As argued throughout the second part of this thesis, this contradictory double standard has been intensified in the Hartz Regime, rendering it socially unjust.

When considered in this manner, Anton Hemerijck's (2013) version of the SIP is built on the same contradiction highlighted by Offe. It first identifies the globalisation of value chains and financial markets, austerity biased elites, and tax competition as contextual changes in which firms operate in their attempt to deliver goods and services to consumer markets for profit. Subsequent policies are implied, through the theory of 'social learning', as normative terrain open for various types of institutional recalibrations designed to adapt to these changes in firm behaviour. This arrangement of variables *reifies* the non-normative nature of global capitalism, in effect defining the decisions of rentiers and capital as forces of nature, whilst identifying social policy as a technocratic exercise enhancing the capabilities of individuals for participation in the system of production, thus equating system integration with social integration. Because labour is expected to view the wage labour relation as a moral duty required for social integration however, lest they face outright structural coercion to work for subsistence, the fundamental contradiction between social and system integration in a capitalist society manifests itself as a socially-unjust differentiation in moral standards enforced through labour market policy. This leads to the general conclusion: *if the distribution of liquid assets is asymmetric, then the distribution of moral standards about who must work will also be asymmetric, ultimately confirming that capitalist labour markets will always be plagued by social injustice under conditions of wealth inequality.*

However, as Przeworski (1985), among many others, have definitively established through comparative historical study, even the least wealthy individual has a higher material standard of living than other systems, at least when capitalism is combined with democracy and a welfare state – namely, most of Western Europe throughout the 20th century. Accepting participation in the liberal democratic order, working class organisations have been able to press normative claims in the public sphere and with employers themselves, in which basic material standards in housing, education, and daily life have become universally available. Therefore, if we accept that the material standards brought about by property rights and consumer price competition are materially desirable *despite* the fundamental injustice of capitalist labour markets, then the purpose of social policy is to *mitigate this injustice*. It is not yet another instrument for fuelling the accumulation of capital because the very subjects of social policy are normatively constrained from taking on this action orientation.

Therefore, despite heralding from a capabilities approach focused on individual emancipation, the SIP *further* exacerbates the fundamental injustice of capitalism for two reasons: 1) social investment is understood not as a reciprocal social contract in which state expenditure shapes an intelligent and responsible citizenry capable of *social integration in the lifeworld*, but a contradictory contract in which social subjects receiving state support or retraining at the Jobcenter encounter a moral duty to integrate as an instrument in the system for use by others who share no equivalent and reciprocating moral duty; and 2) defining the Europeanisation and financialisation of capital as exogenous fact (Hemerijck, 2013:Ch.3), renders the agents responsible for realising the moral duty to work above and beyond both this duty themselves, and the sovereign legal environment which establishes moral duties for the subjects of social investment. Because moral duties in modern legal systems must be universal to maintain their legitimacy and conscious affirmation according to the *Kantian mindset* (Brunkhorst, 2014:Ch.1), exempting a group within society from these duties, based

straightforwardly on access to liquid capital, creates a social order which legally differentiates between moral agents, thus undermining the principle of universal legal equality.

With this final critique of the social investment paradigm now resolved, we must remember observations made in Chapter 5 emerging from my examination of the *Armutsdynamik* data: that social investment is indeed important in a modern welfare state, but not only for system integration into a work role, but also for social integration into the norms of a complex modern society. In addition, the two problems highlighted above also reverberate in this thesis, with the two primary shortcomings of the analysis also related to social integration particularly when oriented towards emancipation, as well as the restriction of the analysis to the ‘sovereign legal order’ of Germany. In the following chapter, I will first define these shortcomings before offering resolutions emerging from evidence uncovered in the thesis itself, followed by a reconstruction of the theory and an incipient research programme for the study of labour market institutions in CPE from a critical perspective of social justice.

I. Shortcomings of Original Theory

The following section will elucidate how empirical research both revealed and offered solutions to the problem of pluralism and universality, as well as the increasing uncoupling of law and lifeworld under conditions of Europeanisation. More specifically, these observations closely follow the dualistic nature of the study itself, with problems emerging first from identifying *equivalent* incentives for participation under *radically plural* action orientations and secondly on how the Europeanisation of capital in particular undermines the epistemic community in Habermas’ concept of the lifeworld and its application to the legal system in this thesis. As pointed out elsewhere (Fraser, 2009:Ch.5) the link between German law and the

German public sphere effectively restricts the analysis of social justice and labour market institutions by what Hemerijck (2013:112) calls “methodological nationalism.”

I.A – Assessing parity of participation amidst radical pluralism of action orientations

By quantifying the incentive structures faced by Frau M, S, and E, the specific potential measures an AV may take are implied as equivalent. On the one hand, the categorisation of structural coercion and financial support for specific ends are rather straightforwardly similar because both are concrete means to achieve diverse ends. The convenience of equivalency afforded to positivist analyses which refrain from normative considerations thus contain a kernel of truth because instrumental means, particularly if financial, are easily rendered equivalent through their pre-existing quantification. On the other hand, we have seen how infrequently each of our action orientations actually face instrumental incentive structures – an empirically-manifested prevalence of normative reasoning over instrumental in incentivising system integration. In this case, the individual subtleties of moral incentives make drawing equivalences more problematic. For example, can we classify further education towards specialised certification (*Ausbildung*) for Frau M, a *Maßnahme* which allows for fulfilling working life norms without the penalty of early pensions for Frau S, as well as delay through medical evaluation for Frau E as equivalent forms of normative reasoning? The intersubjective focus of relational communication in Habermas’s approach suggests that only if Frau M, S, and E themselves communicate and establish these diverse measures as equivalent can they be considered so. Although coded the same in the analysis above, drawing equivalences between these thus remains a blunt exercise in quantifying what remains individually unique.

More abstractly, by the very act of comparison implied in the concept of *parity of participation*, we must generate equivalent standards by which to measure parity under

conditions of irreducible pluralism. The only method of achieving this is again through drawing potentially false equivalencies between system-generated measures incentivising participation, and particular manifestations of normative reasoning. Because moral incentives are oriented towards social integration in the lifeworld, the problem of equating social and system integration is actually not confined to Hemerijck, but also intrinsic to any empirical study on the interaction between social norms and instrumental systems, as well as intrinsic to this study and indeed the Hartz Regime itself. Although appearing intractable, its resolution requires a brief re-examination of the debate between Honneth and Fraser (2003), alongside some observations emerging from the field research.

Honneth's theory of recognition implies social integration supersedes system integration, but does so only through avoiding 'mis-recognition' or 'social denigration' rather than supporting affirmative and thus necessarily defined means towards affirmative social recognition. He states:

"In modern societies, therefore, social relations of symmetrical esteem between individualized (and autonomous) subjects represent a pre-requisite for solidarity. In this sense, to esteem one another symmetrically means to view one another in light of values that allow the abilities and traits of the other to appear significant for shared practice.... The fact that 'symmetrical' cannot mean here that we esteem each other to the same degree is already clear from the essential openness to interpretation of every societal value-horizon. It is simply impossible to imagine a set of collective goals that could be fixed quantitatively in such a way that it would allow for an exact comparison of the value of individual contributions; 'symmetrical' must mean instead that every subject is free from being collectively denigrated, so that one is given the chance to

experience oneself to be recognized, in light of one's own accomplishments and abilities, as valuable for society" (Honneth, 1995:129-130).

If subjects face both a moral duty to be treated as instrument without reciprocity, as well as a moral duty to realise this instrumental role when knowing a certain percentage of those subject to this moral duty are excluded from its realisation simply due to an unemployment rate above 0%, then the dependant classes in the Hartz Regime face collective denigration on a daily basis. The unemployed are not 'esteemed symmetrically' with capital yet resolving this collective denigration through identity-recognising mass employment generates precisely the problem of quantitatively fixing value on individual contribution. Thus, the dilemma of individual pluralism and social universality is exacerbated by Honneth's theory of recognition when applied to labour market policy.

Fraser's (2003:Ch.3) response to this dilemma argues that because we cannot know precisely what form of individual recognition is necessary to satisfy an individual subject, redistribution must be provided independent of recognition. Because recognition without attention to material resources implies a 'monism' – a singular focus on social integration into a culturally-specific lifeworld – its emancipatory potential is limited by the communicative capacity of the integrating society. Instead, an individual requires resources to realise their own trajectory of normative recognition in a given lifeworld, potentially altering the content of that lifeworld through emancipatory struggle. Therefore, the social system arranges parity not through offering a role which aligns with the individual subject's attendant 'accomplishments and abilities', thus aligning system integration with social integration, but by attempting to provide parity of participation in the system to emancipate individuals from ascriptive subordination in the lifeworld.

Considering the secondary observations of cultural and gender prejudices which emerged frequently throughout the field research but were not systematically explored due to the focus on action orientations, we empirically encounter why Fraser's argument is more valid. For example, the lack of universal childcare provision structurally encourages at least one gender to perform care work without any formal mis-recognition by the system. However, through ascriptive subordination in the process of social integration, and indeed reflected in communication about the natural caring qualities of mothers in some interviews, women become that gender in practice (see Graph 4.9). A recognition-oriented system of social policy provision becomes paradoxically blind to this effect, precisely because formalising a gender-focused policy programme essentialises that identity by drawing on its pre-existing mis-recognition in the lifeworld. If the system instituted a gender-focused policy programme, then authorities would effectively define what it means to be a man or woman and what kind of integration should correspond to these definitions. In contrast, an emancipatory social policy provides resources before attention to recognition, regardless of the subordinate character of their identity in a potentially unjust lifeworld.

However, there are limits to Fraser's conception when applied to social policy. Although Fraser's critique of Honneth ultimately suggests that universal basic income (UBI) is the most just policy option, UBI not only ignores the normative link between participation in the production system with social status characteristic of the social protection orientation, it potentially undermines social solidarity altogether – ironically exacerbating the destructive potential of Polanyi's (1944) liberal creed. Because UBI effectively makes work a positive instrumental exercise for self-realisation independent of reciprocating duty, it grants the working and dependant classes the capacity to treat the work relation in the same manner as capital and rentiers. Consequently, reciprocal moral duty shared by membership in a normatively-informed lifeworld, what binds the society together in Polanyi's notion of social

protection, is applied more or less only to taxpayers. Therefore, the necessarily progressive taxation system required to fund UBI can easily be regarded as a reversal of unreciprocated moral duty from labour to capital, effectively generating the mirror image of the fundamental social injustice pointed out above. Instead of simply advocating UBI therefore, I will maintain a focus on mitigating the fundamental injustice of capitalist labour markets – beginning with curtailing the coercive incentive structure.

As we have seen, housing, education, and healthcare are provided by the Hartz Regime independent of labour market status, with income largely limited and controlled by the moral duty to participate in approved forms of labour activity – ie. *Maßnahme* is acceptable whilst Frau E's political volunteering is not. This suggests that any comparative study of social justice and labour market institutions must incorporate *basic provision of needs independent of labour market status*, alongside *conditionality* in welfare provision. In this context, the vignette method reflecting plural action orientations was highly effective for qualitative research, and could be used for comparative analysis across national borders in much the same way it was executed here across regional borders.

In addition, we have seen how Frau E in particular suffers from added constraints emerging from single-motherhood – corroborating Huber and Stephens (2014) finding that single-parent status most strongly correlates with welfare need in Europe. Therefore, in any comparative study moving forward, the universal service provision of childcare *independent of partnership status* (whether in marriage or in the effective marriage assumed in the Hartz Regime concept of *BG*) is likewise important because it offers emancipation from gender domination in the household, through preventing the relegation of someone to childcare duties due ascribed status in the lifeworld, as well as the workplace, through mitigating employers' aversion to single-mothers and their inability to work regular hours. In effect, policies of *de-*

familialisation (Sainsbury, 1996) are essential for overcoming gender domination and integral to any comparative study of social justice.

In summation, a study of conditionality and childcare provision in addition to housing, health, and education allows for ascertaining the capacity for redistributed resources to facilitate social recognition independent of how authorities define a particular identity. In each case, the added resource provides the recipient with the *time* necessary to achieve whatever their general action orientation and specific needs for recognition entail, without attempting to define what social recognition means for those on welfare or for a defined gender. Both sever the link much pre-existing research attaches to gender outcomes, focusing instead on the system of service provision which allows those so categorised to emancipate themselves from implicit subordination.

I.B – Europeanisation of Capital Undermines Analytical Restriction to Nation-state Legal Sovereignty

The omnipresent problem of global markets and national legal structures – particularly those governing dependant, working class, and even small capitalists – has recently become a serious political issue. After the events transpiring since field research was conducted in early 2015 – namely, the refugee crisis, the rise of *Alternativ für Deutschland (AfD)*, then Brexit and the election of Donald Trump in the USA, a great deal of scholarship on the subject of globalisation’s factual inevitability suddenly sounds rather dated. Nevertheless, the critical ‘reimagining’ conducted by Fraser in 2009 offers an insightful starting point, followed by critique and a rather simple solution for what ultimately amounts to a dissonance between normative lifeworlds shaping legal duty, and globalising systems of instrumental rationality.

After critiquing Habermas' conception of the public sphere as exceedingly 'Westphalian' in outlook, Fraser (2009) develops a principle of critical inquiry in which she offers a solution to the tangled question of globalisation. "Henceforth, public opinion is legitimate if and only if it results from a communicative process in which all who are jointly subjected to the relevant governance structure(s) can participate as peers, *regardless of political citizenship*" (Fraser, 2009:96). Unlike Habermas's (2001) post-national constellation, Fraser suggests that the level of public sphere discourse should align with the level of legal subjectivity. Because we have seen that in districts such as Ingolstadt, European and even global legal structures provide the playing field for firms like Audi to function, and this employer in turn subjects the local labour market to the vacillations of its own global profitability and investment decisions, we can safely assert that whatever legal structure Audi operates within is also the one in which its workers in Ingolstadt should be subject to. Fraser's theory of parity applied to a global or at least European public sphere thus suggests a considerable centralisation of democratic authority.

Whilst her argument implies, in the language of this thesis, that functional differentiation in law should never transform into a hierarchical fragmentation of sovereignty, her thesis is problematic for other reasons. First, it effectively reifies a series of political decisions during the neoliberal era to promote the Europeanisation and globalisation of the rentier and capitalist classes; and, in so doing, it secondly suggests that the only socially just outcome is for the centralisation of political authority to follow the centralisation of capital. However, the latter affirms the structural superiority of capital in determining political focal points, effectively privileging the instrumental rationality of capitalist decision-making over national and local normative reasoning which establishes the welfare state. It thus fails to address the primary source of injustice uncovered in this thesis. Although the class structure has indeed become the most important determinant of social (in)justice observed in this thesis,

it is hardly emancipatory to imply a European welfare state is needed to overcome the centralisation of capital. Instead, the de-centralisation of capital, and particularly rentier wealth, is of the utmost importance for enhancing social justice for those operating in Greifswald, Ingolstadt, Freiburg, Gelsenkirchen and indeed any local community. Whilst this solution dramatically undermines the global value chains associated with neoliberal globalisation (Gereffi, 2014), suggesting autarchic isolation, I propose a more practical two-part reformist solution which is more plausible in the current conjuncture.

First, when a given territorially-bounded community is shaped by laws enforcing normative reasoning on the ground, then inequality within that community can present an injustice. This was observed in the case of Ingolstadt compared to Greifswald or Gelsenkirchen. Because both operate according to the same social law, this *regional inequality* undermines the capacity of law to actually universalise normative reasoning in a realistic manner, thus leading to observed contradictions in what is possible and what is expected. Therefore, regional (in)equality is a concrete measure of social justice for a nation-state.

Secondly however, because European competition law creates the playing field for firms, it effectively enforces intense competition in specific consumer markets, for instance through European-wide product standards, thus indirectly shaping the content of capital's instrumental reasoning towards labour markets in Europe. Because this suggests a dissonance between the normative lifeworld at the national level establishing labour and welfare law, and the functional system of production at the European or even global level, the decentralisation of capital, or the centralisation of social policy seems the most logical solution for explicitly aligning enforceable legal norms between system and lifeworld. However, because the normative reasoning binding together lifeworlds can only formally be considered universal across the Federal Republic of Germany, let alone the entire European continent, centralising all law in Brussels effectively forces consolidation of the public sphere without the prerequisite

centralisation of the lifeworld, as well as denigrating the diversity of these lifeworlds for the sake of a functional democracy at the European level. Fortunately, a simpler solution may present itself as well as offering a readily available measurement.

Reconciliation between European capital and national welfare can be conducted through monitoring and encouraging financial account *equilibrium*. This balances the opposing injustices emerging from trade disequilibrium in much the same way promoting inter-regional equality does at the national level. On the one hand, capital export from regions like Ingolstadt and countries like Germany must be balanced by imports, lest the wealth generated by specialised workers in Germany – functioning according to German norms of work – is extracted by global rentiers and distributed wherever is instrumentally rational for them, without an attendant moral duty to reinvest that wealth in Germany. On the other hand, the accumulation of debt and foreign ownership through net capital import in places like Greece undermines the solidarity within that society as well, through instrumentalising the entire social order to ensure foreign claims on a society's future income are paid above realising local lifeworld norms. I thus propose that the equilibrium assumption prevailing textbook neoclassical trade theory should no longer function as a persistently taught theory despite its almost universal falsification, but a normative goal for European law and a simple measure of the financial account to include in any comparative study of social justice. It effectively allows for trade whilst ensuring the *level* of wealth generated within any socio-economic community corresponds to the collectively-generated wealth of the community.

In summation, each of the above observations stem from some shortcomings in a theory of social justice primarily focusing on freedom of action orientation in unemployment and welfare activation policy, as well as intensity of double moral standards in a socio-economic structure. With these shortcomings and proposed solutions now delineated, I will turn to the

systematic theory reconstruction which provides a research programme for applying a critical theory of social justice to labour market institutions in CPE.

II. Generating Research Programme for the Critical Analysis of Social Justice of Labour Market Institutions in Comparative Political Economy

In returning to the research question of, *‘How can we analyse labour market institutions with a theory of social justice that is sufficiently parsimonious to conduct concrete empirical research?’* a tentative reconstructed answer is below. It presents a broader programme than articulated in chapter 4, incorporating many observations of structural conditions, policies, measurements, and implicitly normative outcomes which should be observed for undertaking a cross-case comparison of European labour market institutions. I first reiterate the problems with the structure of argumentation in mainstream CPE, followed by a proposal for structuring arguments focused on social justice and labour market institutions, schematising this proposal for a future research programme, thus answering the theoretical research question. The subsequent section re-inserts this theoretical framework within the subdiscipline of CPE, arguing its topical focus and relational ontology is actually complementary to a SIP focused on the causality between educational investment and individual labour market outcomes, rather than the justness of the relations within labour market institutions.

II.A – The Structure of Argumentation in Comparative Political Economy

Although I previously critiqued Rothstein’s reification of market trends, his conception of the state also deserves critical scrutiny. Focusing on what the state can do presumes that if the state cannot do it, it either cannot be done, or some other organised system can do it more effectively and should therefore be considered independent to any normatively-informed study

of the welfare state. From a critical standpoint however, because the nature of modern law presumes to render judgment on any possible activity (see Benjamin, 1978; Agamben, 1991), whether the state or some other system organises an activity nevertheless requires a legal mandate. Whether a collective goal is organised through markets, the state, or spontaneous and amorphous collections of civil society actors, the very process of organising people towards collective ends creates specialised roles and therefore functionally differentiated systems governed by instrumental reason.⁴⁸ Because the law in democratic society presumably accords with social norms agreed upon through communicative action in the public sphere, arguing that one domain or another in socio-economic policy ought to be the domain of the state, or market, ultimately requires codification in law as an organising principle. In other words, the state ‘does something’ by relegating system integration to private, market-like decisions.

As previously mentioned, because the prosperity emerging from price competition in consumer markets renders capitalism a more legitimate mode of production, the state allows private ownership over the means of production and the partial marketisation of labour allocation. However, because asymmetric allocations of asset ownership create a fundamental injustice through the labour allocation system, the capitalist welfare state is essential for mitigating this. Therefore, *the social structure of capitalism is not an exogenous variable to welfare state analysis, but rather its target focus when evaluated by a theory of social justice.*

Nevertheless, Rothstein’s reified oversights are intensified in Esping-Andersen’s (2003b) conception of social investment, and particularly Hemerijck’s (2013). By reifying market allocation, the SIP renders the hiring and investment decisions of capitalists and rentiers, the primary source of paid employment for the subjects of social investment, exogenous to their analysis. In other words, again, the character of the social structure

⁴⁸ Rothstein (1998:24-5) seems to fundamentally misunderstand Habermas in this respect, arguing that ‘system’ equates to state activity, when it should be understood more broadly.

determines the very goal of most social investment theories (increasing employment) yet remains exogenous to their analyses.

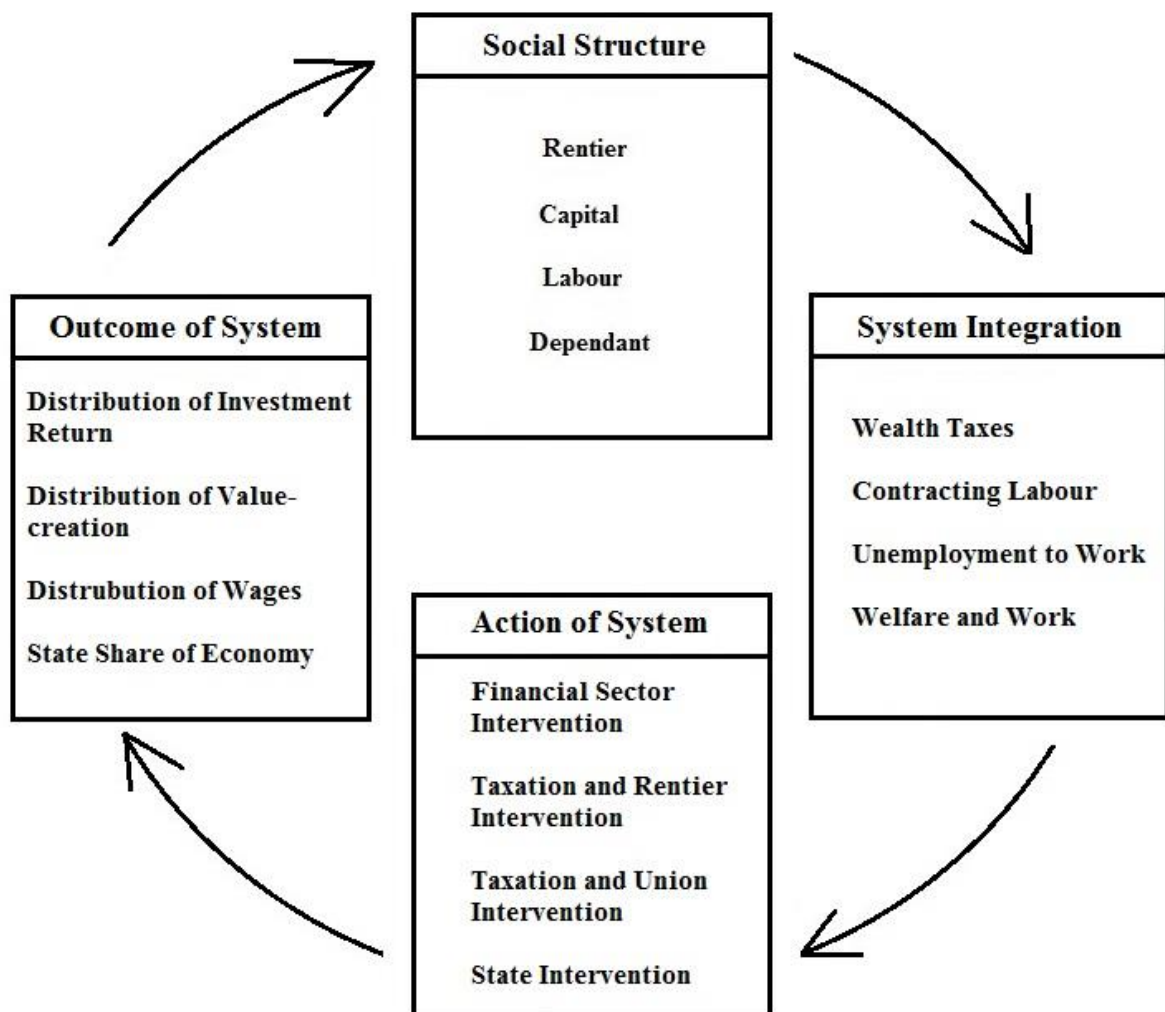
II.B. Reconstructing a Theory of Social Justice for Labour Market Institutions in Comparative Political Economy

To correct the supply-side myopia of the SIP, I suggest rectifying the traditional analytical framework utilised to study institutions, that of exogenous inputs such as globalisation, postindustrialisation, gender change, demographic change etc... followed by institutional throughputs assuming methodologically individualist agents, and socio-economic outputs. As an alternative, I schematise a circular policy process. It begins with the *social structure* understood as rentiers, capital, labour, and dependents, with each subsequent category of observation delineated by their integrative and output effects for those social classes. Thus institutions are understood as *forms of system integration* as well as *actions of the system*, before *outputs of the system* are understood as direct measures of institutional effects on the social structure. This cycle presents a basic theoretical framework for the comparative study of social justice illustrated in **Figure 8.1**. It targets only the forms of participation each class partakes in specifically regarding the labour market and is constructed as a closed cycle because the outcome of system participation determines the level of asymmetry in the social structure.

The action and output of the system can be understood as the means and ends of applied instrumental reasoning. Due to Fraser's focus on *participation*, the *system integration* box was the primary empirical focus of this thesis. System integration is the primary site where the social injustice of imparity and asymmetrically applied normative constraints on participation take place. However, as we have seen, inequality in the social structure shapes the intensity of this social injustice due to its asymmetric application of moral duties. We must therefore

consider the action and outcome of the system as effectively determining the asymmetric distribution of resources in the social structure and thus freedom of choice in system integration.

Figure 8.1 – Reconstructed Framework for Assessing Social Justice and Labour Market Institutions in Comparative Political Economy



In general therefore, through this thesis's focus on system integration, I have discovered, or, more accurately, re-articulated, how the capitalist mode of production leads to an unjust class society, identifying mechanisms among labour market institutions which

mitigate or exacerbate this injustice. Each of these mechanisms has an attendant data source. These data sources are detailed in **Table 8.1** below, with *italics* representing intrinsically qualitative data. The subsequent section details how each data source can be understood in terms of the theory of social justice. By collecting data in each of these categories, we can build not only a framework for assessing the social justice of labour market institutions across Europe, but also providing the raw material for a new set of typologies in CPE.

It is important to note that the fundamental contradiction of social integration and system integration explored at the outset of this chapter, as well as implicit in the potentially contradictory principles of justice outlined both here and, manifested differently, in Rawls (1999a), can and should manifest themselves empirically. Each welfare state regime offers a trade-off between universal normative constraints the facilitation of plural action orientations – all shaping the basic social structure of the capitalist system. Their various configurations offer a promising avenue for future research on the ‘social justice regimes’ of labour market institutions in CPE, with both the programme outlined below and the overarching form of this thesis thus answering how to actually accomplish this research task from a perspective emerging from Critical Theory. In this context, evaluating the *justness* of a given measurement means focusing on whether or not the comparative shifts in the measurement mitigate or exacerbate the inequality, intolerance, or disequilibrium resulting from the basic injustice of capitalist labour markets. In other words, the framework presented here remains *critical* in providing a set of relational fulcra specifically for labour allocation systems in advanced welfare regimes and a basic evaluative context for each – with evaluation focusing on the emancipatory mitigation of the instrumental/normative double standard emerging primarily from wealth inequality and the attendant dichotomy of normative versus instrumental reasoning. In order to demonstrate how each measurement in the table above does so, I will turn to justifying each by drawing on empirical evidence collected in this thesis.

Table 8.1 – Research Programme for Social Justice in Comparative Political Economy

Social Structure	System Integration	Action of System	Outcome of System
1A. Rentiers	1B. Wealth Taxes	1C. Financial Sector Intervention	1D. Distribution of Investment Return
Inequality of Wealth	Inheritance Tax Levels	Equilibrium in Financial Account	Growth Rate vs. Return on Capital (Piketty Formula)
Overall Indebtedness	Wealth Tax Levels	Taxes on Capital Gains and Investment Returns	Inter-regional Inequality
2A. Capital	2B. Contracting Labour	2C. Taxation and Rentier Intervention	2D. Distribution of Value-creation
Overall Unemployment Rate	<i>Work Generation Programmes</i>	Taxes on Profits	Profit Share
Sectoral Unemployment Rate	Structure of Atypical/Typical Work Contracts	Corporate Debt Levels Relative to Revenue	Wage Share
3A. Labour	3B. Unemployment to Work	3C. Taxation and Union Intervention	3D. Distribution of Wages
Gender Distribution of Labour	Union Membership Rates	Income Tax Levels and Structure	Income Inequality
<i>Childcare Provision (universal, familial, private)</i>	Unemployment Provision, <i>character of system (ie. Private, public, Ghent)</i>	Collective Bargaining Coverage	Gender-based Income Inequality
4A. Dependants	4B. Welfare and Work	4C. State Intervention	4D. State Share of Economy
<i>Market Independent Basic Needs</i>	<i>Welfare Conditionality</i>	<i>Maßnahmen</i>	State Expenditure as Proportion of GDP
Size of Dependant Class	Proportion of Labour in Precarious or Subsidised Work	State employment as proportion of total employment	Government Deficit/Debt as Proportion of GDP

II.C – An Empirical Research Programme

The above section defines a reconstructed theory of social justice largely within the epistemic framework of Habermas's system and lifeworld distinction, as well as the principles of social justice derived from Fraser and Brunkhorst, then operationalised for labour markets in Europe through drawing on the work of Offe. The reconstruction better articulates the

circular relationship between social classes and the system of production, focusing specifically on labour market institutions. Because the social structure emerged as the most important determinant of the asymmetric application of the moral duty to work, followed by the freedom of action orientation in system integration, an important premise underpins this reconstruction which directly echoes Habermas (1987a): *power equilibrium facilitates socially differentiated actors' appeal to universal normative reasoning in communicative action, as well as enforcement of resultant binding consensuses, whilst power inequality intensifies hierarchies of instrumental rationality, thus exacerbating social injustice*. Each of the columns in the above table can be understood as arranged in descending importance from left to right. Indeed, the final column is largely an outcome of the previous two, as well as predicting the future shape of injustice in the social structure built on wealth inequality. The following will articulate how each variable should be interpreted to evaluate social justice empirically, outlined according to the circular model proposed above.

II.C.1 – The Social Structure

1A. Rentiers – Measuring the inequality of wealth forms the first key variable in determining subsequent performance of the system in terms of social justice. Secondly, the overall indebtedness of the economy indicates influence of the financial sector – a sector privileged by monetary authorities to subsist off claims on the future income of others. Including both is necessary to capture the hierarchical centralisation of those who subsist off non-participation in the labour relation yet approach it instrumentally – ie. the negative image of the work-obliged welfare dependant – as well as the proportion of the economy given over to those subsisting off the earned income of others. Due to this normative right of non-

participation, and instrumental rationality shaping decisions towards participation, *reduced* 1) wealth inequality and 2) overall indebtedness indicates a more just social structure.

1B. Capital – Because firms (ie. ‘capital’ as defined here) actually participate in the wage labour relation, but reason about this relation instrumentally rather than normatively, the relative power between labour and capital determines the level in which capital *can* reason about this relation instrumentally. As highlighted in the previous chapter, having 73 potential workers for one position versus a 1-to-1 ratio dramatically alters the structural conditions behind negotiation over a wage labour contract. Therefore, *unemployment*, and more specifically, *sectoral unemployment* are important variables in the social structure of capitalism which influence relations of justice. *Lower* unemployment overall, as well as greater equilibrium between sectors, offers a more just order between labour and capital, because it begins to approach equivalency in bargaining power.

1C. Labour – Misrecognition in the lifeworld is necessary to include as part of the overarching social structure of capitalism. As we have seen with Frau E, the gender distribution of labour in Germany reflects a series of educational and cultural norms which undermine the capacity for women to participate as equals. Associated with *defamilialisation*, the universal provision of childcare regardless of partnership status is thus essential for overcoming injustice – with more universality independent of labour market and partnership status more socially just. Although likely an effect of the above, the gender distribution of wage labour should also be included as an indicator, in which equivalency is more socially just.

1D. Dependants – Because Critical Theory focuses on emancipation, the inherent structural coercion of an individual lacking basic needs suggests that a more just order requires their provision independent of labour market status. However, defining poverty by income in particular can fail to appreciate how many regimes offer housing, healthcare, and even

education independent of welfare income, as well as the scope of its universality (as shown through the discussion of the German *Wohngeldgesetz*) – thus suggesting this variable is necessarily qualitative when conducting empirical comparisons. Because basic needs are a prerequisite to the *basic capability* of participation the labour market, universal and independent provision is more socially just. Furthermore, as we have also seen, the relative size of the dependant class shapes how any individual dependant obliged to work will perceive their local lifeworld – with a larger dependant class indicating greater dissonance between the duty to work, and the actual number of workers surrounding them. Thus, a smaller dependant class is more socially just when the duty to work is assumed as integrated into welfare policy.

II.C.2 – System Integration

2A. Wealth Taxes – Unlike other taxes in which the state takes a portion of overall value created in the economy, wealth taxes represent a method of obliging participation and correcting structural injustice. The wealth tax proposed by Piketty (2014:Ch.15) is of course utopian, however, more specific taxes on property and liquid assets offset by deductions for active investment, thus also requiring qualitative comparison, could be a useful avenue for ensuring that rentiers are morally obliged to participate. Moreover, the level of inheritance taxes represents the social reproduction of class society and rentier privilege, thus suggesting the higher the rates for both, the more the inherent injustice of capitalist labour allocation is mitigated.

2B. Contracting Labour – Alongside a qualitative comparison between work generation programmes, like those studied by Eversberg (2014), the structure of labour market contracts is of exceeding importance in identifying how much capital can shift risk onto workers. As discussed in reference to the Hans Böckler Foundation’s study of atypical

employment in Germany, more precarious and short-term contracts effectively shifts responsibilities for a humane standard of living away from capital and onto workers and the state – thus exacerbating the contradiction between instrumental rationality in hiring, and moral duty in working and welfare. Fewer work programmes subsidising private employers and decreased proportions of precarious contracts thus indicate enhanced social justice.

2C. *Unemployment to Work* – Overall union membership correlates with decreased welfare need and greater income equality (Huber and Stephens, 2014), thus suggesting that more unionisation results in greater equilibrium of power between labour and capital (Offe, 1985). Perhaps more importantly for system integration, the length of time one can subsist on unemployment insurance offers an individual more negotiating power in waiting for a work role aligned with their action orientation. Finally, the structure of unemployment provision should be compared qualitatively, with the widespread use of the Ghent System in Nordic regimes suggesting more union influence on the distribution of unemployment results again in greater equality between social classes.

2D. *Welfare to Work* – As explored throughout the empirical section of this thesis, welfare conditionality is of exceeding importance in determining not only parity of participation between action orientations, but also the intensity of the dissonance between the moral duty to work, and their description as instrumental objects for a profit-oriented capital. Thus, a qualitative comparative assessment of welfare conditionality is necessary to capture *parity of participation* between action orientations across regimes. The quantitative measure corresponding to this emerges from statistical descriptions suggesting rapidly increasing subsidised precarity under the Hartz Regime – defined as those who work and receive welfare simultaneously. A larger precarious sector again exacerbates the dissonance between moral duty and instrumental use value as employers effectively hire only if the state subsidises

workers who are themselves morally obliged to work. Linked with work generation programmes in section 2B, less subsidised work is more socially just.

II.C.3 – Action of the System

1C. Financial Sector Intervention – Because the financial sector has been targeted as contributing to injustice by a number of studies (Lapavitsas, 2013), diminishing and balancing it should be a key action taken by the state to reduce the power of rentiers. Thus, capital gains taxes should increase, and, as previously discussed, converging on financial account equilibrium should be an explicit state or EU-level policy not only for functional reasons (See Rajan, 2010), but also normative reasons.

2C. Taxation and Rentier Intervention – Although taxes on unearned income should increase, because capital actually does participate in the labour market, taxes on profits should at least correspond to the same scale as taxes on wages. In effect, both are income taxes from participation in productive value-creation, and their levels should equate. Likewise, because increased debt indicates greater intervention in production by the financial sector, effectively distributing income away from entrepreneurs towards idle rentiers, high levels indicate increased moral pressure to repay debt at the expense of further participation in the labour market. Thus, overall, lower profit taxes and debt levels indicate a more socially just order.

3C. Taxation and Union Intervention – Whilst the appropriate level of income taxation is left open to democratic politics, they should be on equivalent scales between capital and labour, which includes preventing the regressive back door of consumption taxes (Bach et. al. 2015). At the same time, not only due to their beneficial effect both comparatively (Korpi, 1983; Korpi and Palme, 2003; Huber and Stephens, 2014), and within Germany (Schulten and Bispinck, 2014), a greater scope of collective bargaining power for unions creates conditions

in which workers are not entirely subjected to capital's instrumental reasoning in wage levels and working conditions.

4C. State Intervention – Unlike subsidising work generation programmes for private employers, although occasionally criticised as useless towards the goal of *SvpB* reintegration, state-directed *Maßnahmen* were celebrated by both AVs and some dependants themselves. They offer a gentler and more reasonable avenue towards fulfilling the moral duty to work. Thus, having more *Maßnahmen* increases the capacity for the labour allocation system to mitigate the mis-recognition and stigmatisation attached to welfare dependency for the under-skilled and aging long-term unemployed. At the same time, state employment generally indicates the level of direct state intervention in the labour market – which is itself no indication of social justice, but important for assessing what kind of general policies are required to achieve it in other systems.

II.C.4 – Outcome of System

1D. Distribution of Investment Return – Piketty's (2014:Ch.10) discussion of wealth inequality in the 21st century presents an important set of accounting identities for the assessment of the future projection of rentier wealth. The key formula is whether or not the rate of return matches or exceeds the overall growth rate of the economy – which it does currently, and has for most of the history of capitalism aside for the Golden Age of welfare capitalism from 1945-1971. Although the previous two sections have advocated increased inheritance and wealth taxes, as well as decreased corporate and overall debt to mitigate the fundamental injustice of capitalist labour markets, the actual outcome of these policies can be captured by Piketty's formula. Namely, if the rate of return exceeds economic growth, then the rentier class is advancing in their relative power and creating a more unjust social structure. Due to obvious

environmental considerations of overpopulation and resource depletion, growth rates cannot be relied upon any longer (Muraca, 2012). Therefore, as an outcome variable, whether or not wealth taxes and financial sector regulation is working to mitigate injustice can be assessed by whether return on investment *after taxes* exceeds economic growth. If it does not, social justice is enhanced.

2D. Distribution of Value-creation – As demonstrated in the four regions in the previous chapter, as well as extensively explored by Fratzscher (2016), the distribution of value creation has sharply shifted towards capital under the Hartz Regime. Although this is not necessarily unjust according to the relational theory presented here, because ownership of liquid assets is often tied to family businesses (Fratzscher, 2016:Ch.19), greater profit shares indirectly support the increased concentration of wealth. Moreover, not only has the expectation of future reward become a distant memory for workers in declining wage share environments, further intensifying the moral duty to work when financial rewards diminish, much of the increased income for capital in Germany under the Hartz Regime derived from wage suppression – albeit with some very recent mitigation achieved through union mobilisation (Schulten and Bispinck, 2014). Therefore, as another outcome variable, increased unionisation rates and collective bargaining coverage should result in a situation in which wage shares increase to a level sustainable for profitability, subsequently maintaining equal distributive shares to enhance social justice.

3D. Distribution of Wage Income – another characteristic of the contemporary period is income inequality. Although not necessarily unjust, dualisation and gender inequality often accompany this outcome, thus suggesting that both the structural and lifecycle inequality of income should be mitigated, particularly if atypical employment, and gender and age discrimination are the causes of this outcome. Moreover, because the moral duty to work is

communicated as a universal social norm, vast inequalities in wage income intensify defection from the norm, as K6 asked when stating ‘should she make crumbs?’ regarding Frau M.

4D. State Share of the Economy – Government debt simply shifts the moral duty of debt repayment from private actors to the general public, failing to overcome the fundamental injustice emerging from wealth inequality. Echoing Streeck (2014), government debt equates to inadequate taxation and overall marketisation of the economy and is therefore unjust. However, despite the necessary government intervention in the provision of basic needs, housing, and education, as well as offering *Maßnahmen*, increased state share of GDP shifts the economy away from price competition in competitive end markets, undermining abundance and variety in consumption. Therefore, an increased state share of GDP is an outcome indicative of capitalist crisis and state intervention for socio-normative reasons – thus indicating a negative development.

Each justification presented above draws on independent research on the German Hartz Regime generalised for cross-case comparison. Although each variety of capitalism has a myriad of historically-evolved institutions (Streeck and Thelen, 2005), the gradual convergence and coordination accompanying EU membership suggests that these variables are observable in every European country. Although necessarily complex, the number of variables are sufficiently parsimonious to answer the primary theoretical research question of this thesis: *how can we study labour market institutions from a perspective of social justice sufficiently parsimonious for concrete empirical research?* The answer is above.

III. Conclusion: On Growth, Education, and Social Mobility

The framework presented above should be understood as an ontologically relational conception of social justice for comparative research in CPE. It is *not* a study making a causal

argument about what kind of institutions cause or do not cause social injustice. However, causality begins to appear when examining how to apply the concept across cases – as is indicative of the final two columns in Table 8.1. As previously mentioned, these two columns are of less importance than the first two. The first two directly address the principles of social justice in this thesis, with the final two assessing how the dynamic of a given system mitigates or exacerbates violation of the first principle in particular.

It is important to remember that social justice *cannot* be understood simply as a level of social investment followed by the probability of working. These are measures of inputs and outputs which do not describe the lived experience of injustice. Even a cursory examination of social justice theories suggests that justice is an inherently relational concept, and thus should be operationalised as such. More importantly, the intensive micro-level field research carried out here confirms the inherently relational outlook held by many people actually subjected to German social law, BA policy, and Jobcenter discourse – in which drawing moral equivalencies between relational subjects is a regular part of everyday communicative action. Therefore, potential objections focused on the importance of economic growth, as well as advocating educational investment leading to social mobility are largely invalid for the following reasons.

First, economic growth, although clearly important for offering greater consumer abundance and the actual capacity to achieve a higher standard of living from decades past, does not assess social justice. It assesses inputs and outcomes under which a great deal of working class individuals may or may not be ground into dust through exploitation and treatment as expendable instruments. Moreover, without equal distribution of output, relational inequalities ultimately exacerbate the fundamental injustice of capitalist labour markets – the moral obligation for some to be treated as instruments by others. Therefore, any theory of social justice for comparative empirical analysis in CPE must confront and incorporate this problem

rather than assuming economic growth will mitigate it. Indeed, faster growth in Germany under the Hartz Regime has actually been accompanied by greater injustice.

Although overlooking the fundamental injustice of capitalist labour allocation due to its supply-side myopia, another potential critique from social investment advocates is whether or not a system generates *social mobility*. Problematically however, social mobility is often understood as transgenerational and focused on occupation (See for instance Esping-Andersen, 1993) rather than if one shifts between social classes understood as sources of subsistence. The occupational focus does not indicate whether a given individual getting up early and going to work in order to integrate in the local lifeworld faces a socially just system of labour allocation, regardless if working in the fields as a migrant agricultural worker or in high-intensity technology. It only indicates the sectoral development of a given economy and which kind of independent variables focused on the labour force correlate with this kind of economy. It thus says nothing about social integration and justice and everything about specific roles of system integration – again equating system integration with social integration.

Due to this distinction, because of their fundamentally different approaches despite both using the term ‘social justice’, social investment and the Frankfurt School-inspired approach above could actually be considered complementary. A Critical Theory of social justice can be understood as a supplement to research on social investment which provides the empirical data on the human content which is then activated for economic production in a more or less socially just order. Education investment and subsequent transgenerational occupational mobility thus offer indicators for the input and output of a given regime, whilst this framework offers a theory, epistemic framework, and subsequent research sites for whether or not the regime in question is actually *socially just*.

Conclusion

If the purpose of a political economy is to intensify the accumulation of wealth for an already privileged class owning financial assets or the physical means of production, then the Hartz Regime can be considered exemplary of ‘exceptional performance’. However, if its purpose is to mitigate the social injustice emerging from the asymmetric wealth distribution characteristic of class society, then the Hartz Regime does not deserve this distinction. Indeed, the Hartz reforms appear to have exacerbated this injustice, reflected in increasing inequality, declining wage shares, and intensified activation into low-paid and precarious employment in Germany since 2005. Although considerable comparative research has been conducted to demonstrate the former purpose of political economies, whether the German Hartz Regime is more or less unjust compared to other comparable cases according to the latter, *critical* interpretation, remains for future research. This thesis presents an approach for the subdiscipline of CPE for precisely the latter purpose.

Through first critiquing the reified assumptions of the SIP – which effectively assumes the purpose of political economies is wealth for the privileged and work for the rest – followed by constructing an epistemic framework from Habermas’ system and lifeworld distinction, this thesis has presented both a theory of social justice for use in CPE and applied this theory to a study of contemporary Germany. Empirical findings suggest that both Fraser’s principle of parity of participation is undermined somewhat by the Hartz Regime and logics of social differentiation have intensified to such an extent that double moral standards between social classes are pervasive in the contemporary social structure of German capitalism. Whilst the working class faces both a moral duty, and an overarching normative expectation, to become full citizens through participation in wage labour alone, their capitalist counterparts face no such social norm and attendant duty to participate. Instead, they are granted the right to treat participation in wage labour as an entirely instrumental exercise in the pursuit of personal profit

– precisely what is normatively constrained for the dependant and working classes. Consequently, the German political economy increasingly resembles a hierarchical class system marked by double moral standards. Although emerging from the abstractions of Critical Theory, the description presented here thus resonates with an increasing awareness among intellectuals and everyday citizens: the supposed facts of neoliberal political economy rationalise impunity for some and moral obligations from others. Double moral standards are readily understood as social injustice by anyone capable of communication and the capacity for reason.

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- *Structural Analysis Database (STAN)*

<http://piketty.pse.ens.fr/fr/capitalisback>

- *Germany.xls*

<http://statistik.arbeitsagentur.de>

- *Wohn- und Kostensituation - Deutschland, Länder, Kreise, Jobcenter - Januar 2015*
- *Arbeitsmarkt im Zahlen – Bestand an Arbeitslosen und gemeldeten Arbeitsstellen nach Zielberufen*
- *Statistik der Grundsicherung für Arbeitsuchende nach SGB II*

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Appendix⁴⁹

Interviews

Phase I

Arbeitsvermittler [work placement officers] – ‘AV’

22 Interviews conducted in February and March, 2015

Phase II

Kunde [clients – of the Jobcenter (ie. Unemployed)] – ‘K’

6 Interviews conducted in May and June, 2015

Gewerkschaftliche Repräsentanten [Union representatives] – ‘GR’

4 Interviews conducted in May and June, 2015

Arbeitgeber [Employers] – ‘AG’

3 Interviews conducted in May and June, 2015

Statistics

I. Aggregation Procedure

A number of statistics provided by the BA as well as the *Volkswirtschaftliche Gesamtrechnungen der Länder: Kreisergebnisse für Deutschland (VGRdL)* are given for the county/district (*Kreis*) level which equates to Jobcenter-level statistics. Likewise, actual interviews were conducted at the Jobcenter-level in the following districts. These were then aggregated into *Agenturbezirke*-level data. Because there was a reorganisation at the *Kreise*-level in Mecklenburg-Vorpommern in 2011, which included Greifswald, comparable statistics were mostly unavailable before this time for Greifswald-Vorpommern. Secondly, some *Kreise*-level statistics are aggregated already for Greifswald, whilst some maintain the south and north split characteristic of the Jobcenter division in the Greifswald *Agenturbezirk*. The following are the Jobcenter/*Kreisen* aggregated into the *Agenturbezirke*-level cited in the text:

Greifswald

- *Vorpommern-Greifswald Nord*
- *Vorpommern-Greifswald Süd*

Ingolstadt

- *Eichstätt*

⁴⁹ All categories derived from German sources are presented first in their original German, followed by a translation in [Brackets].

- *Neuburg-Schrobenhausen*
- *Pfaffenhofen a.d. Ilm*
- *Ingolstadt, Stadt*

Freiburg

- *Breisgau-Hochschwarzwald*
- *Freiburg im Breisgau, Stadt*
- *Emmendingen*

Gelsenkirchen

- *Gelsenkirchen, Stadt*
- *Bottrop, Stadt*

Therefore, aside when indicated in the title as statistics emerging directly from *Agenturbezirke*-level reports offered by the BA, statistics for *Jobcenters*, from the *VGRdL*, and from the *Hans Boeckler Stiftung* are all *Kreise*-level statistics aggregated in the above categories. Because each of these above districts has different population levels, any statistics presented as ratios or averages weighted the averages per district population for greater accuracy.

II. Graph 7.1 – Housing Costs

II.A – Sources:

<https://statistik.arbeitsagentur.de>

- Document: Grundsicherung für Arbeitsuchende nach SGB II

- *Wohn- und Kostensituation - Deutschland, Länder, Kreise, Jobcenter - Januar 2015*
 - (A) – *Bestand Bedarfsgemeinschaften* [Number of BGs]
 - (B) – *Laufende Kosten der Unterkunft pro Euro; pro BG* [Current Costs of Accommodation per Euro, per BG]
 - (C) – *Laufende Kosten der Unterkunft pro Euro; pro Person in Haushaltsgemeinschaft* [Current Costs of Accommodation per Euro, per Person in Household]

<http://www.wohngeld.org/mietstufe.html>

- (D) – *Mietenstufe in Euro* [Rent level in Euro - highest possible for single person]
- (E) – *Mietenstufe der Gemeinde* [Rent level for Community/Kreise]

II.B – Preliminary Calculations:

- (F) = $A * B$ (Total BG Expenditure)
- (G) = $(B/C) * A$ (Estimated Total Persons)

$$(H) = D * G \text{ (Maximum possible total expenditure at highest Mietenstufe level)}$$

Note Because both the dependant population and the *Mietenstufen* are different for each *Kreise*, it became necessary to calculate the total BG expenditure and estimated total number of persons in BGs for each *Kreise*, then add these together and reduce to a per capita basis for the *Agenturbezirke*.

II.C – Presented Calculations:

Average Cost = F/A

Estimated Cost per Person = F/G

Relative Cost of Dependand vs. Highest Universal Subsidy = (F/G)/(H/G)

III. Graph 7.2 – Proportion of Working-Age Dependants in the Regional Social Structure

III.A – Sources:

<https://statistik.arbeitsagentur.de>

- Document: Zahlen, Daten, Fakten: Strukturdaten und –indikatoren: Agentur Bezirke Biannual Report

(A) – *Bevölkerung Ingesamt – im erwerbsfähige Alter (15 bis u. 65 Jahre)* [Total population of employable age (15 to 65 years)]

- Document: SGB II Kreisereport Unrediviert: 6 Verweildauern im SGB II: bishereige und abgeschlossene Verweildauern

- 3.2 eLb mit Brutto-Einkommen aus Erwerbstätigkeit⁵⁰
 - größer 450 bis 850 Euro
 - größer 850 bis 1200 Euro
 - größer 1200 Euro

(B) – *SvpB+AlgII = All eLb earning above 450 ('Working Poor')*

https://www.boeckler.de/wsi_5859.htm

- WSI-Datenbank: Atypische Beschäftigung

(C) - *Sozialversicherungspflichtig Beschäftigte* [Number of people in SvpB Employment]

⁵⁰ “Erwerbstätige ELB werden definiert als erwerbsfähige Leistungsberechtigte (ELB), die ein Einkommen aus Erwerbstätigkeit erzielen. Dabei kann das Erwerbseinkommen sowohl aus abhängiger als auch aus selbständiger Erwerbstätigkeit stammen” (BA, 2015) [Gainfully employed ELB are defined as employable beneficiaries (ELB), that receive an income from gainful employment. Thereby, income from employment can come from both dependent (wages) and self-employment.]

Note Because all work above 450€ per month is SvpB, then any individual receiving ALGII benefits (*eLb mit Brutto-Einkommen aus Erwerbstätigkeit*) and working above this level of income is not earning sufficiently per month to eliminate all state dependency. Therefore, by taking the total 15-65 population divided by the population in SvpB – those in SvpB also receiving ALGII, we effectively calculate those either dependent on the state or another wage earner whilst including those eLb [employable beneficiaries] working above SvpB levels as dependents.

III. B – Presented Calculations:

Est. % of 15-65 Population in Dependant Class = $1 - ((C-B)/A)$

IV. Graph 7.3 – Not-Unemployed Employable State Dependents

IV. A – Sources

<https://statistik.arbeitsagentur.de>

- Document: Sanktionen - Deutschland mit Ländern und Kreisen (unrevidiert)

- *Bestand erwerbsfähige Leistungsberechtigte* [employable beneficiaries]
 (A) – *Insgesamt* [in total]
 (B) – *Arbeitslos* [unemployed]

IV. B – Presented Calculation

Percentage of employable welfare beneficiaries which are not classified as 'unemployed' = $(A-B)/A$

V. Graph 7.4 – Welfare and Wage Labour

V. A – Sources

<https://statistik.arbeitsagentur.de>

- Document: SGB II Kreisereport Unrevidiert: 6 Verweildauern im SGB II: bisherige und abgeschlossene Verweildauern

- (A) – *Erwerbsfähige Leistungsberechtigte* [Employable Beneficiaries]
 (B) – *eLb mit Erwerbseinkommen* [Employable Beneficiaries with earned income]
 (C) – (Equivalent to III.A.(B) above – ie. ‘Working poor’)

*3.2 eLb mit Brutto-Einkommen aus Erwerbstätigkeit
größer 450 bis 850 Euro
größer 850 bis 1200 Euro
größer 1200 Euro*

V. B – Presented Calculations

Est. % of ALGII Beneficiaries in any Wage Labour = B/A

% of ALGII Beneficiaries in SvpB Wage Labour = C/A

VI. Table 7.1 - Total SvpB subsidised through ALGII

VI. A – Sources

<https://statistik.arbeitsagentur.de>

- Document: SGB II Kreisereport Unrediviert: 6 Verweildauern im SGB II: bisherige und abgeschlossene Verweildauern

(A) – (Equivalent to III.A.(B) above – ie. ‘Working poor’)

*3.2 eLb mit Brutto-Einkommen aus Erwerbstätigkeit
größer 450 bis 850 Euro
größer 850 bis 1200 Euro
größer 1200 Euro*

https://www.boeckler.de/wsi_5859.htm

- WSI-Datenbank: Atypische Beschäftigung

(B) - Sozialversicherungspflichtig Beschäftigte [Number of SvpB employed]

VI.B – Presented Calculation

Total SvpB subsidised through ALGII = A/B

VII. Graph 7.5 – Characteristics of the Unemployed

VII. A – Sources

<https://statistik.arbeitsagentur.de>

**- Document: Bestand an Arbeitsuchenden und Arbeitslosen nach Personengruppen
Durchschnitt 2014**

(A) – *Arbeitslose...* [Unemployed]

(B) - ...*ohne abgeschlossene Berufsausbildung* [Unemployed without completed Berufsausbildung]

(C) - ...*50 Jahre und älter* [Unemployed 50 years and older]

(D) - ...*Ausländer/innen* [Unemployed foreigners]

- Document: Sanktionen - Deutschland mit Ländern und Kreisen (unrevidiert): 3.1 Sanktionen gegenüber erwerbsfähigen Leistungsberechtigten (eLb)

(E) - *Bestand erwerbsfähige Leistungsberechtigte (eLb) arbeitslos* [Number of unemployed employable beneficiaries]

(F) - *Bestand arbeitslose eLb mit mindestens einer Sanktion* [Number of unemployed employable beneficiaries with at least one sanction]

VII. B – Presented Calculations

% Unemployed without Ausbildung = B/A

% Unemployed 50+ = C/A

% Unemployed Foreign = D/A

% ALGII with at least 1 Sanktion (Dec. 2014) = F/E

VIII. Graph 7.7 - Labour Market Structure

VIII. A – Sources

<https://statistik.arbeitsagentur.de>

- Document: Arbeitsmarkt in Zahlen: Bestand an Arbeitslosen und gemeldeten Arbeitsstellen nach Zielberufen

(A) – *Arbeitslosen insgesamt* [Unemployed]

(B) – *Gemeldete Arbeitsstellen insgesamt* [Reported Vacancies]

VIII. B – Presented Calculations

Advertised Work Positions as % of Registered Unemployed 12/2012-6/2015 = B/A

IX. Graph 7.9 – The Precarious Working Class

IX. A – Sources

https://www.boeckler.de/wsi_5859.htm

- WSI-Datenbank: Atypische Beschäftigung

(A) - Sozialversicherungspflichtig Beschäftigte Insgesamt

(B) - Sozialversicherungspflichtig Beschäftigte Teilzeit

(C) - Sozialversicherungspflichtig Beschäftigte Leiharbeit

(D) – Minijobs Ausschliesslich

IX. B – Presented Calculation⁵¹

Proportion of All Employment which is Part-time, Temporary, or Minijobs =
 $(B+C+D)/(A+D)$

X. Graph 7.10- 7.12

X.A – Source

<http://www.vgrdl.de/VGRdL/tbls/?rev=RV2014&lang=de-DE#RV2014KR>

X. B – Presented Calculations

Note Graphs 7.9 and 7.10 are taken directly from the documents provided.

Graph 7.10 – GDP Per Capita by Region

Document: Volkswirtschaftliche Gesamtrechnungen der Länder: Bruttoinlandsprodukt, Bruttowertschöpfung in den kreisfreien Städten und Landkreisen der Bundesrepublik Deutschland 1992 und 1994 bis 2014

(A)- Bruttoinlandsprodukt in jeweiligen Preisen je Einwohner [GDP Per Capita By Region] – “Das Bruttoinlandsprodukt umfasst den Wert aller innerhalb eines Wirtschaftsgebietes während einer bestimmten Periode produzierten Waren und Dienstleistungen. Es entspricht der Bruttowertschöpfung aller Wirtschaftsbereiche zuzüglich der Gütersteuern und abzüglich der Gütersubventionen. Die Bruttowertschöpfung, die zu Herstellungspreisen bewertet wird, ergibt sich für jeden

⁵¹ This calculation is identical to the Hans Boeckler Stiftung’s calculation of Atypical Employment, however, calculating it independently was necessary in order to aggregate the provided district-level statistics into the agency level.

Wirtschaftsbereich aus dem Bruttoproduktionswert zu Herstellungspreisen abzüglich der Vorleistungen zu Anschaffungspreisen”(VGRdL, Definition). [The gross domestic product covers the value of all goods and services produced within an economic area during a given period. It corresponds to the gross value added of all economic sectors, plus the taxes on goods and minus subsidies. The gross value added, which is valued at the cost of production, is calculated from the gross production value for each economic sector at production prices minus inputs at purchase prices.]

Graph 7.11 – Average gross income per worker by region 2000-2014

Document: Volkswirtschaftliche Gesamtrechnungen der Länder: Arbeitnehmerentgelt in den Kreisfreien Städten und Landkreisen der Bundesrepublik Deutschland 2000-2014

- (B) – *“Bruttolöhne und -gehälter (Inland) insgesamt je Arbeitnehmer [Average gross income per worker by region] – Die Bruttolöhne und -gehälter (Verdienste) enthalten die von den im Inland ansässigen Wirtschaftseinheiten (Betrieben) geleisteten Löhne und Gehälter der beschäftigten Arbeitnehmer vor Abzug der Lohnsteuer und der Sozialbeiträge der Arbeitnehmer sowie Sachleistungen, die den Arbeitnehmern unentgeltlich oder verbilligt zur Verfügung gestellt werden”(VGRdL, Definition). [The gross wages and salaries (earned) include the wages and salaries of employed workers paid by domiciled enterprises (firms) before deduction of income taxes and social contributions of workers – plus benefits provided to employees free of charge or at a reduced price.]*

Graph 7.12 – Estimated Wage Share by Region

Documents:

Bruttoinlandsprodukt, Bruttowertschöpfung in den kreisfreien Städten und Landkreisen der Bundesrepublik Deutschland 1992 und 1994 bis 2014

- (C) – *Einwohner* [Inhabitants]
(D) – *Erwerbstätige* [Employed]

Volkswirtschaftliche Gesamtrechnungen der Länder: Arbeitnehmerentgelt in den Kreisfreien Städten und Landkreisen der Bundesrepublik Deutschland 2000-2014

- (E) – *“Arbeitnehmerentgelt [Compensation per Employee] - Das Arbeitnehmerentgelt (Inland) umfasst sämtliche Geld- und Sachleistungen, die den innerhalb eines Wirtschaftsgebietes beschäftigten Arbeitnehmern aus den Arbeits- oder Dienstverhältnissen zugeflossen sind. Das Arbeitnehmerentgelt setzt sich zusammen aus den Bruttolöhnen und -gehältern sowie den tatsächlichen und unterstellten Sozialbeiträgen der Arbeitgeber”(VGRdL, Definition). [The compensation of the employees (domestic) covers all the money and benefits that accrue to workers employed in an economic area in work or service relations. The employee's compensation consists of the gross wages and salaries as well as the actual and presumed social contributions of the employers.]*

$$\text{Estimated Wage Share} = (E * (D/C)) / A$$

Note The estimated wage share effectively calculates the total amount employers spend on labour (E) – which includes employers’ matching social contributions unlike the measure (B) which only includes the employee contributions prior to tax – multiplied by the ratio of the employed/total population of a given region (D/C), subsequently divided by the per capita income of the that region (A). It must be remembered that per capita income equates to the entire population, whilst wage share per worker must be calculated only according to the number of workers. Thus, the D/C ratio allows for effectively calculating the average wage income per capita - with the remainder between per capita income and wage income per capita presumably the capital share.

XI. Graph 7.13 –Registered Unemployed Available for Each Job Offer by Sector

XI. A – Source

<https://statistik.arbeitsagentur.de>

- Document: *Arbeitsmarkt in Zahlen: Bestand an Arbeitslosen und gemeldeten Arbeitsstellen nach Zielberufen: (Dec-12; Jun-13; Dec-13; Jun-14; Dec-14; Jun-15)*

(A) *Gemeldete Arbeitsstellen* [Reported Vacancies]; (B) *Arbeitslose* [Unemployed]

1. *Land-, Forst-, Tierwirtschaft, Gartenbau* [Land, Forest, Animal economy, Gardening]
2. *Rohstoffgewinnung, Produktion, Fertigung* [Production of raw materials, production, manufacturing]
3. *Bau, Architektur, Vermessung, Gebäudetechn.* [Construction, Architecture, Surveying, building technology]
4. *Naturwissenschaft, Geografie, Informatik* [Natural science, geography, information sciences]
5. *Verkehr, Logistik, Schutz und Sicherheit* [Transport, logistics, protection and security]
6. *Kaufm.Dienstl., Handel, Vertrieb, Tourismus* [Retail, hospitality, trade, marketing, tourism]
7. *Unternehmensorga, Buchhalt, Recht, Verwalt.* [Corporate governance, accounting, law, administration]
8. *Gesundheit, Soziales, Lehre u. Erziehung* [Health, social work, teaching, childcare]

9. *Geisteswissenschaften, Kultur, Gestaltung* [Arts and humanities, culture, design]

XI. B – Presented Calculation

Average Available Unemployed Workers for Each Job Offer by Sector - December 2012-June 2015 = Average ratio from Dec 12 – Jun 15 of (A1...A9/B1...B9)